

*for
C
Sup*

Devt (1952) Department.

MS SERIES.

G.O. NO. 1542

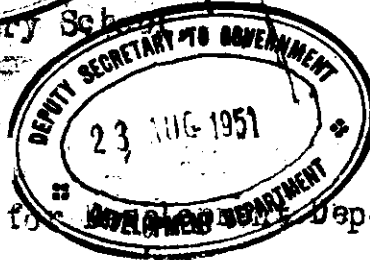
Dated 9-4-52

[Despatch Abstract.]

Public Servants - Hernandez Sri L - Ex-headmaster
Fisheries School, Hejmadikodi - Petition for re-employment
~~Re-employment~~ - Rejected

Secretary, Development

Please call for a report and put up.



Ligoury Fernandes,
Head Master,
Aided Higher Elementary School,
Kiddipoor,
Taluk, S. Kanara Dt.

H.M. (Food)

The Hon'ble Minister for Fisheries Department,
Government of Madras,
MADRAS.

94315 f/s
29.8.51

Ref:- L. Dis 18-1950 D/23-2-1951 of the Director of Public Instruction, Madras.

Sub:- Request to reinstate or transfer me to my previous Fisheries Service as the learned Director of Public Instruction, Madras, after a careful examination of my case rightly absolved me and made me once again fit for Govt. Service.

Sir,

I most humbly beg to represent the following detailed grievances for your kind consideration and redress.

1 I was first appointed as the Fisheries School Head Master on 23-7-1928 and confirmed as a full fledged Fisheries Secondary grade Head Master, in Asst. Director's No. 1723 -#42 D/3-3-1942, as my service was most meritorious. I am the first Secondary grade Fisheries Head Master confirmed in South Kanara.

2 About a year back prior to my confirmation when I was working at Hejmadike a corrupt Police Prosecuting Inspector Sunita and a Police S.I. included my name also with several others for a criminal offence of simple hurt and set up a barlet against me as a complainant. I was quite innocent to the matter and had nothing to do with the complainant of the offence. This fact was well known to all my officers both in the Education and Fisheries Departments. Because of the commanding position of the Police they had not only authored the charges and regimented the evidence but also concocted and fabricated the prosecution story. Even the most intelligent Judge could be hoodwinked as the manipulation and fabrication is of the biggest type. The Director of Fisheries removed me from my long earned job on

/

account of the false reports by the corrupt officers like Sunita
false medical certificates and misleading judgments based on them.

★ Sunita the Prosecuting Inspector was immediately afterwards
dismissed from Police Service for corruption of highest type
as the code of honour and morality demanded adequate punishment.
It was a departmental case and if any officer is appointed
to hear me I am able to convince that I am quite innocent in the
matter. But the Law is different, Justice is different and the
destiny could not be averted.

★ But the most learned Director of Public Instruction and the
Divisional Inspector of Schools, Coimbatore, after careful
examination of my case, most rightly absolved me from it is
and remain made me eligible for Government Service. A teacher
in aided School is quite eligible for any promotion in Government
Service. I pray the Honourable Minister to write to the
Divisional Inspector, Coimbatore, or to the D.P.I. to find
out if there is any objection to transfer me to the
fisheries specially when there are no qualified hands there.

★ I was appointed as the Assistant Superintendent for the K.S.L.C.
public examination for all the years prior to 1950 both for
Malpe Fisheries School and my school. This year also I am
appointed as assistant superintendent. The order is enclosed.
The percentage of passes in the K.S.L.C. Public Examination in
my school is 64 which is more than double that of the Malpe
Fisheries School. Even the Revenue Department appreciates my
work very much and I am appointed as Supervisor for the
Census operations.

★ Even today the Fisheries Department has to cope with the work
with unqualified and unttrained hands in the place of my vacancy.
There is only one hand in the Malpe Fisheries School of my
qualification there. The least effort is required.

55
119 ~~22~~

M/1

The Hon'ble Minister can very well appoint me in the Malpi Fishery school at least on this ground, As I possess strong constitution and I am only 40 years and I can work for another 10 years.

Therefore I most humbly pray the Hon'ble Minister to restore me to my Fisheries service. For this act of kindness and generosity I shall be sure to discharge my duties to the entire satisfaction of all my superiors and shall ever remain grateful.

Kidiyoor P.O.
South Malabar, Dt.
22-8-1951.

I beg to remain
Honoured Sir,
Your most obedient servant,
L. Armandy

The necessary records in original will be submitted when called for.

Copy submitted to the Director of Fisheries, Chozhik, Madras.

Serial No. 94315 F/51-1 (S) 31.8.51 See F.

Referred to the D.F. for urgent remarks.
The enclosures received with the petition are sent herewith in original for reference and return with the Director's reply.

Missin
31.8.51

1/9/20881-20881

320001

To the D.F. ✓ *quid*
(With copy of pp 1-3 above
and the originals of pp
5-34 below)
RD. 1. 10. 51

Subject: - Education - Elementary - Aided Schools, South Kanara Dt.
Aided Cl. School, Kichiyoor - Action against Sri.
Ligory Fernandes, Head master.

Recd: - From the Divl. Inspector of Schools, Coimbatore R.O. No.
18 EA/50 dated 29.12.1950.

The Divisional Inspector is informed that since
the work of the teacher for the last five years is
reported to be satisfactory, it is not necessary to
Council or suspend this certificate now.

2. In T.S.R. No. 4461/45 and T.S.L.C. No. 1444/31
are herewith returned.

Sd/ ^{x x x}
Director of Public Instruction
Madras.

L.O. No. 18-1950 d/- 23.2.1951.

Sub: - Same as above

Ref: - Same as above

Copy communicated to the D.C.O.S. Kanara with
reference to his Oe 563/50 dated 13.12.50.

2. The T.S.L.C. No. 1444/31 and T.S.R. No. 4461/45
are herewith returned.

Sd/ ^{x x x}
Divl. Inspector of Schools,
- Coimbatore -

P.T.O

R.C. No 767. Sub/49
10-3-57.

Copy communicated to the teacher, through the
Manager, Kidizom Aided Higher Ec. Schol.

2. The T.V.C. and T.S.R. are returned
herewith. Receipt of the same may kindly be acknowledged.

S. Lakshminarayana
Deputy Inspector of Schools, 20-34 ST
Udipi North Range

19/3 12/3

Submitted to the Head Master Kidiyoor H.E. School. Udipi

A. W. Carey Int. to JR
Manager.
Kidiyoos H.E. School.

26/3/51

Census -Immediate.

Ref: C.No. 7949-50.H.C.

Taluk office, Udipi,

Dated 13-2-1951.

From

To *Liquor Revenue Dy.*

Sri M.C. Mahan, B.A.,
Tahsildar, & Charge Superintendent,
Census Operation, Udipi.

The Supervisor of the Census Operation,
Udipi Taluk, Udipi.

Sir,

Census-1951--Circle abstract transmission on the due date-requested.

--

The Collector has ordered that the charge abstract of the Taluk should reach him on 5-3-51. All the supervisors are therefore requested to see that the abstracts of their circles reach the Taluk office, Udipi on 4-3-51 by 1 P.M.

B. K. R. A.
For Tahs. & Charge Superintendent

9
Kidiyoor, N. Dipi, S. Kanara
1-8-1950.

This is to certify that Mr. Ligoury Fernandes is working in this School from 2-2-1945 as Headmaster without any break in his Service. In the course of his nearly six years Service, he maintained a high level of excellence in his work and the E.S.L.C. Public Examination result since his employment in this School an improving year by year. This year nine out of fourteen pupils have passed. The strength of the School too has almost doubled. The annual Inspection Reports by the Education Department are very satisfactory. He is hard working, honest and very faithful. I pray that very many good qualities of his head and heart meet with a proper reward.

Sd) A. Narayana Thanking,
Manager,
Aided Higher Elementary School
Kidiyoor, El. Schools Kalmadi and
Kodavoor.

Government College,

Mangalore, S. K.

15th June, 1931.

L. Fernandes underwent his training Course in this Institution (1929 - 1931) and I have pleasure in saying that during that two years' course he maintained a high level of excellence in his studies. He is earnest and pains taking.

(Sd.) G. K. Chettur

(A.A. Oxon)

Principal.

K. P. G. Menon, M.A. (Oxon)

Bar - at - Law.

Government College,

Mangalore, S. K.

8th June, 1961.

L. Fernandes was one²₁ my Very Good Students in the Training class. He bore himself always with dignity and was noted for his behaviour and aptitude ~~for~~ English. I have reasons to believe that my colleagues⁴ share my opinion about his character and I am sure he will carry out any work that may be entrusted to him with care and diligence.

(Sd.) K₁² P. Menon

Vice Principal.

This is certify that ~~L~~ezoury Fernandes who has
appeared for the Secondary School Leaving Certificate
Examination of 1926 from this school, was a hard working
and regular student. His conduct too was good. He used
to take keen interest in sports.

Board High School, {
 {
Udipi, S. K. {
 {
19-4-1926. {
 {

(Sd.) B. Balakrishna Puranic
Headmaster.

SECOND TRAINING DEPARTMENT, GOVERNMENT COLLEGE,
MANGALORE.

Relieving Certificate.

This is to certify that Ligoury Fernandes was trained as a Secondary Grade Teacher from 22-7-1929 to 19-3-1931 in the Secondary Department, Govt. College, Mangalore. He has appeared for the Training School Leaving Certificate Examination held ~~therein~~ in March 1931. His conduct and character while in our training were good. He was relieved from the Training Institute on the afternoon of the 19th March 1931.

(Sd.) T. Mangesh Rao.

M. S. S. SETHA .L.C.,

Bar - at - Law,

C.C.S. (Retired),

Ingledon,

Kankana P.O. (S. I.)

I have much pleasure in certifying that I know M. L. Fernandes personally and that his character and conduct are good. He is an intelligent young man with considerable energy and capacity for work. He has besides a strong constitution and is well built.

(Sd.) M. S. Sresnata

21-3-1933.

M. S. SRESHTA M.L.C.,

Bar - at - Law,

C.C.S. (Retired.)

Ingledon,

Kankannady P.O. (S.K.)

I have much pleasure in certifying that I have known [✓]Mr. L. Fernandes personally and that his character and conduct are good. He is an intelligent young man with considerable energy and capacity for work. He has besides, a strong constitution and is well built.

(Sd.) M. S. Sreshta

21-8-1933.

Fisheries Office,
Calicut, 22-8-1928.

Ref. No. 1107/28.

MEMO.

Sub: Education -- Udyavar School -- Taking over.

~~The Udyavar School is taken over permanently with~~
effect from 22-7-1928.

L. Fernandes, headmaster, Udyavar School, will be paid
Rs. 20/- per mensem from 23-7-1928.

Register, Stationery etc. will sent in due course.

CC/

For Asst. DIRECTOR OF FISHERIES
(Coast)

J. A. Saldanha B.A.L.L.B., M.L.C.

I have known well Mr. Legoury Fernandes M Headmaster,
Govt. Fisheries School, Udyavar, for a long ^{time} personally.
He is a young man of active habits and is honest, resourceful
and reliable. He is sure to prove a success in whatever
situation ~~he might find himself.~~ He belongs to a highly
respectable family.

MANGLOR, |
S. Kanara. |
17-9-1929. |

(Sd.) J.A.Saldanha M.L.C.

GOVERNMENT FISHERIES TRAINING ~~ACADEMY~~ INSTITUTE.

CALICUT.

I hereby certify that L. Fernandes underwent training in this Institute, from August, 1932 to June, 1933 and sat for the final Examination for Fisheries Teacher's in June, 1933.

Calicut, 0
20-6-1933. 0

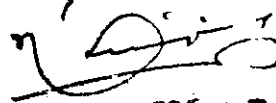
Sd/- E. RAMAN MENON,
Headmaster,
Govt. Fisheries Training Institute,
Calicut.

Room 63A/45

1) 3 45

Referred.

2. Since Mr. K. Arundhanai
does not possess the required quali-
fication to handle the Subject
in the H.E. Std. he cannot be
continued on the Staff and
consequently the formation
of Std. V cannot be permitted.


Deputy Inspector of Schools
K. C.
1973

To.

The Deputy Inspector
Kidiyoor Range, Kidiyoor

From:

20 FEB 1945

The Manager,
Aided Higher Ele. School,
Kidiyoor

Sir.

Sub: - Appointment of a Sec. Grade
Trained teacher.

I have the pleasure to report that one
Mr. Ligory Fernandez, a fully trained Sec.
Grade teacher has been appointed since
2-2-1945. Hence I request you to kindly
sanction the reformation of Std VII, there now
being 3 Sec. T.T.C. with a Kanarese Pandit,
and a full-time Vocational Instructor, in
pursuance of your Memo S. No. 65 of 44 dated
5.10.1944.

I beg to remain
Sir

Your most obedient Servant
K. Govind Bhagav
Manager

Kidiyoor
Date 13.2.1945

PROCEEDINGS OF THE DISTRICT EDUCATIONAL OFFICER, SOUTH KANARA.

R.O.C. 8446 E3/50

Dated: 6.3.51

Sub: VIII Standard Public Examination, 1951 - Assistant Superintendents - Appointment of -

The VIII Standard Public Examination, 1951 will be held in the month of April, 1951. The exact date will be intimated to the course by the Secretary to the Commissioner for Government Examinations, Madras. The Centres at which the examination will be held and the names and designation of Chief and Assistant Superintendents are furnished in Annexure I to these proceedings. If the number of Assistant Superintendents is insufficient for efficient supervision the Chief Superintendent may appoint additional Assistant Superintendents from Annexure II with the approval of the undersigned.

2. The Annexure II shows the Headmasters who will identify the pupils of their schools at the Examination centres. The teachers appointed as Assistant Superintendents (Annexure I) will also identify the pupils of their schools at the centres.

3. Receipt of the communication should be acknowledged by the Chief Superintendents to this office and the Heads of Institutions to the Deputy Inspectors concerned.

4. In case the persons appointed as Assistant Superintendents or identifiers are unable to attend on the Examination days, for reasons beyond their control they will depute one of the Secondary Grade Assistants in their place and report the fact to this office as well as to the Chief Superintendent.

DISTRICT EDUCATIONAL OFFICER,
SOUTH KANARA.

To the Chief Superintendents.

Copy to the Heads of Higher Ele. Schools thro' the Dy. Inspectors.

Copy to the Secretary to the Commissioner for Government examinations Madras, for approval.

Copy to the President, District Board, South Kanara.

Copy to the Commissioners, Chikore & Udipi Municipality.

FBM/7.3.51.

Kidijon DE

ANNEXURE I.

<u>Name of Centre & Chief Suptds.</u>	<u>Name of Assistant Superintendents.</u>
I. Govt. Hr.Ele.Basic Trg.Sch. 1. Headmaster, Basic Trg.School, Mangalore.	1. N. Venkatramana Bhat, Konchady Sri Rama Hr.Ele. 2. D.D.Souza, Kulur Church H.E. 3. K.Narayana Rao, Kotekar, H.Ele. 4. K.Annanji Rao, Headmaster, Boekapatna Municipal H.Ele.school. 5. Rosy Menezes, Headmistress, Urva St. Aloysius H.Ele. 6. Johanna Habon, B.E.M. Brahmin. 7. M.Kasim Saheb, Municipal Muslim H.E.School. 8. Lawrence D'Souza, Headmaster, Jeppoo Asylum H.E.School. 9. Headmaster, Balmatta B.E.M. H.Ele.
II. Board High School, Mulki.. Dy-Inspector Mangalore Central.	1. Sri Ramanna Shetty Kateel H.E. 2. K.Krishna Shetty Mundkur Bd. H.E. 3. B.T.Bangera, Asst. Karnad H.E. 4. P.Mahalinga Shetty Headmaster, Hejmady Board H.E. 5. K.Gopal Krishna Kamath Headmaster Kolekady H.Elementary. 6. A.N.Hebbar Yermal Bd.H.Ele.
III. Kinnikambala Board H.Ele. Dy. Inspector Mangalore.	1. Raghavendra Shenoy Asst. Kinnikambala Bd. H.Ele. 2. N.Rama Rao, Gurpur Hindu H.Ele. 3. Rev. Fr. Raphael D'Souza, Headmaster, Moodupera H. Ele.
IV. S.V.S. High School, Buntwal. Junior Dy.Inspr. Mangalore.	1. M.Anantha Rao, Panemangalore S.V.S. Hr.Ele. 2. Mrs.-G.Fernandes, Tenkabellore H.Ele. 3. John D'Souza, Headmaster, Mermajal H.E. 4. Nara yana Hegde, Asst. Farangipet. 5. P.Puttannayya, Arla Hr.Ele..
V. Board H.School, Coondapoor. Dy-Inspector, Coondapoor.	1. G.Venkatraya Shenoy S.V.H.E.Gangolli. 2. K.Ananda.Netoji H.E.Halnad. 3. H.Vittal Bhat, Koni Bd.H.E. 4. K.Narnappa Hebbar Koteswar Bd. H.E. 5. B.Shanker Rao Basrur Hindu H.E. 6. J.A.D'Souza, Coondapoor St. Mary's H.Elementary. 7. Miss Monica Menezes Bd.H.Ele. Coondapoor. 8. Madhava Rao Joishy Shanker Narayana H.Ele. 9. T.M.Shanker Rao Uppunda Bd. H.El. 10. Mangasha Bhat Khambadkone H.E. 11. Parameshwar Maiya Giliyar S.S.V. Hr.Ele.. 12. Gangadhar Aithala Karkada Bd. Hr. Ele.
Board High School, Udipi. Inspr. Udipi North.	1. T.Srinivasa Bhat Kadiali aided Hr.Ele. 2. F.S.Kotian Perdoor B.E.M. 3. Srimathi B.Devaki Municipal South. 4. T.K.Srinivasa Rao Adi Udipi H.E.. 5. Joseph D'Souza, Malpe Fisheries.. 6. M.Ananthappa Kini Hiriadka B.H.E. 7. Liguory Fernandes Kidiyoor aided.

14
W
From
Ligoury Fernandes,
Headmaster,
Aided Higher Ele. School,
KIDIYUR, S. Kanara.

Dy. Secy., Dev.

Please call for a report
from the Director of Fisheries

To
The Hon'ble Minister for Fisheries,
Fort St. George,
M A D R A S.

30/1.
H.M. Food.
No 11448 f/s 2
1-2-52

Ref: My memorial dated 24-8-51.

Honoured Sir,

I most humbly beg to submit the following in continuation of my memorial dated 24-8-1951.

The Law which is commonly called an ass generally puts me out like a machine without having any consideration for justice or truth. This has nominally made me go out of the Fisheries Department and ceased to be a government servant. But undieing justice and ever conquering Truth have kept me immediately afterwards on the same status of a government servant.

I have been appointed for a responsible post of a Headmaster of a Higher Elementary School, Assistant Superintendent for E. S. B. C. Public Examination, Member for the Attendance Committee, Malpe, and permanent Vice President for the Teachers' Association, Malpe. Senior Dy. Inspector is the president of this Association. Malpe Fisheries School Teachers also appreciated my services very much and appointed me as Supervisor for Circle No. 35 for last Census Operation. Now I am appointed as Asstt. Presiding Officer for the ensuing Election and Presiding Officer if Mr. Sheshachar, Principal of the Sanskrit College, Udipi, fails to be present on that day.

In this way, the law has kept us out of regular Fisheries Service for a period of over 6 years and this is a sufficient amendment. But undieing justice and ever conquering Truth are trying to save me from this calamity and have already paved the ground for it as mentioned above. The struggle between Truth and Law have rent in twain and therefore I pray the Hon'ble Minister to take pity on me and save me from this calamity by reinstating me at a very early date in view of the above mentioned manifold merits.

For this act of kindness and generosity, I strongly assure to discharge my duties to entire satisfaction of all my superiors and shall ever remain grateful. The Dy. Collector's order dated 13-12-1951 is submitted for kind perusal.

I beg to remain,
Honoured Sir,
Your most obedient Servant,

Kidiyoor, S. Kanara, I
Date: 23-12-1951. I

L Fernandes
23/12/51
Headmaster.

Copy submitted to: The Director of
Fisheries,
Madras.
The Dy. Director of Fisheries,
Madras.

To H.S.

Def.

The Petition from L. Hernandez on p 5 above and the minutes of H.M. food, at W' on p 5 above may be perused. On a previous petition D) 22.51 from ~~the same~~ ^{the same} Hernandez, the remarks of the D.F. have been called for, and they are awaited. No new facts have ~~to~~ been set out ~~at~~ in the present petition on p 5 above. A copy of this petition has ^{also} been sent to the D.F. Direct by the Petitioner. In the circumstances no separate action is called for in this. The remarks of the D.F. to the Editor

'X' on p 5 above

P 3 above may be awaited till 20.2.52. (The D.F. was last reminded on 28.1.52)

2.2.52 C.E.
2.2.52

2.2.52

(Same as pp 1-3 above)

37

From
Ligoury Fernandes,
Head Master,
Aided Higher Elementary School,
Kidiyoor, Udipi, South Kanara District.

To

The Honourable Minister for Fisheries,
Fort St. George, M A D R A S - 9.

Honoured Sir,

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Director of Public Instruction, Madras.

Sub:- Request to Reinstate or transfer me to
my previous Fisheries Service as the
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me and made me once again fit for Govern-
ment Service.

- - - - -

I most humbly beg to represent the following
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Head Master on 23-7-1928 and confirmed as a full-fledged
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No.1723/42, dated 3-3-1942 as my service was most meritorious.
I was the ~~most~~ first Secondary Grade Head Master confirmed in
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About a year prior to my confirmation, when I
was working at Hejamadikodi, a corrupt police prosecuting
Inspector, Sunita, and a police Sub Inspector included my
name also with several other for a criminal offence of simple
hurt and set up a harlot against me as the complainant.
I was quite innocent in the matter and had nothing to do
with the complainant or the offence. This fact was well
known to all my officers both in the Education and Fisheries
Departments. Because of the commanding position of the
Police they had not only tutored the witnesses and regimented
the evidence but also concocted and fabricated the prosecution
story. Even the most intelligent Judge could be hoodwinked
as the manipulation and fabrication is of the highest type.
The Director of Fisheries removed me from my hard earned job
on account of the false reports by the corrupt officers like
Sunita, false medical certificates and misleading judgements
based on them.

Sunita, the Prosecuting Inspector was immediately
after wards dismissed from Police service for corruption of
the highest type as the code of Honour and morality demanded
adequate amendments. It was a ~~dk~~ departmental case and if
any officer has patience to hear me, I am able to convince
that I am quite innocent in the matter. But law is different
and justice is different and destiny could not be averted.

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tion and the Divisional Inspector of Schools, Coimbatore,
after careful examination of my case most rightly exonerated
me from this and again made me eligible for Government Service.
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in Government Service. I pray the Honourable Minister to
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or Director of Public Instruction and find out if there is any objection to transfer me again to the Fisheries Department specially when there are no fisheries qualified hands. ~~then~~

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Your Most obedient Servant,



Kidiyoor,

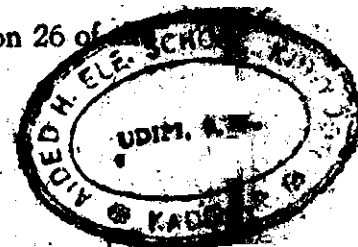
Dated 24 -8-1951.

Copy submitted to the Director of Fisheries, Madras.

Copy submitted to the Deputy Director of Fisheries, Madras.

21/12/51

Polling personal — Form of order of appointment under section 26 of
Representation of the People Act, 1951.



1. The order of appointment should be in the following form and should
be separate for each polling station.

Coondapoor/Bramhwar/Udipi/Karkal Assembly Constituency, and
South Kanara (North) Parliamentary Constituency
Polling Station at (Place) No....109....

1. Under Section 26 of the Representation of the People Act, 1951, the following
appointments of Presiding Officers and Polling Officers in respect of the polling station
specified above are made:

Name of the Officer (1)	His Official designation and Address (2)	Designation at the polling station. (3)
-------------------------------	--	---

Sri K Sheshachar, Principal, Sanskrit College, Udipi

Presiding Officer.

Sri L. Fernandes, Head Master, St. Mary's School, Udipi

Polling Officer (Assistant Presiding Officer).

Polling Officer (Polling Clerk).

Polling Officer (Reserve)

*Polling Officer
(Marking Clerk)*

Official Guide

2. The above named..... (name) is hereby authorised to perform the functions of the Presiding Officer, if owing to illness or other unavoidable cause, that Officer is obliged to absent himself from the polling station.

Date 12-12-1951

Place: Coondapoor.,

*Returning Officer, Coondapoor/Bramhavar/
Udipi/Karkal Assembly Constituency.*

Date 13-12-1951

Place: Mangalore.,

*Returning Officer, South Kanara (North
Parliamentary Constituency.*

- NOTES: (i) 'Place' Enter here the name of the village, panchayat, municipality etc., where the polling station is located.
- (ii) 'No' Enter here the No. assigned to the polling station by the Parliamentary Returning Officer.

L. J. 15/12/51
Section Immediate

C. No 8196-512.



From Sri K. Venkappa
Tamilnadu Udp.

Tamil Nadu Office, Madras. 18

Dated 15.12.51

L. F. Manthri

The Headmaster aided
H.E. School Kidiyur.

Sir/Madam

Elections - New Constitution - General Elections - Polling
personnel - Orders of appointment - Service of.

Please find enclosed, the appointment order relating to the members of your staff. These orders may be got served on the respective individuals and their acknowledgments obtained in the place provided in the enclosed list. Also the acknowledgments returned to the person forthwith. In case any of the addressees are either absent or leave their home addresses may be mentioned against their names so that the orders may be sent to them by registered post. Or in case any of them are not available for service on the spot a note of it may be made against their name and the copies of orders retained for service later and transmission of their acknowledgments directly to me.

The polling will be held on the 2nd January 1952 - 2.1.52. Hence all the polling officials will have to be at the respective stations before 12 noon on the previous day of the poll and present themselves before the Presiding Officers for further instructions.

Those appointed as reserving officers are requested to attend the special instruction class to be held at Secp. on Sunday the 23rd December 1951 at 3 P.M.

Please review and send the printed guide given to persons appointed as also (Sd) K Venkappa 14.12.51
Tamilnadu Udp.
By order: T. Ravi

From

Sri. K. Venkappa,
Tahsildar, Udipi Taluq.

Udipi. S. K.
20-12-1951

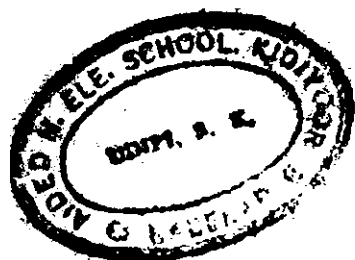
Dear Sir.

Ref. Appointment Order dated 13-12-51 for
POLLING DUTY.

Please note that as the Polling date is 2-1-1952
you have to be present at your polling station before
12 noon of 1-1-52, and take instructions from the
Presiding Officer, if he happens to be a different person.

(Sd.) *K. Venkappa,*
Tahsildar, Udipi.

For Returning Officer S. K. (North)



212/27/12/51



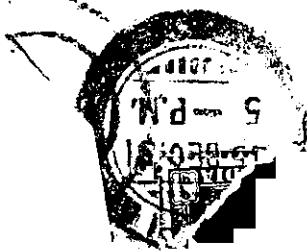
24/
Book Post
Education agent on S. G. S

To. Sri L. Fernandes.

Headmaster

Aided H. H. School
Taidigal

H.
S. Adinar



Legal
FISHERIES DEPARTMENT.

From

To

Sri.K.N.Anantaraman, I.C.S.,
Director of Fisheries,
Madras 14.

The Secretary to Government
Development Department,
Madras 9.

No. 20531 C3/51 D/ 21.3.'52.

Sir,

Sub: Establishment - Fernandez Sri.Liguory - Head
Master Aided school - Kidiyur - reinstatement -
remarks - submission of -
Ref: His petition communicated to me with Government
Endt. No. 94315-F/51 dated 31-8-'51.

I submit my remarks on the petition of Sri.Liguory
Fernandez to the Hon'ble Minister referred to above as follows:

Para 1 and 2:- I have no remarks to offer.

Para 3:- I have no personal opinion to offer in the matter. On
verification of old files of the office of the Asst.Director (Coast)
Calicut, I find that the teacher was dismissed from service with
effect from 4-7-'42 as per the proceedings of the Director of
Industries and Commerce Madras No. 3127 F.C/41 dated 29.4.'43
(Copy enclosed). Sri.Fernandez was first kept under suspension
since 16-4-1941, the date on which he surrendered himself before
the court in connection with a Criminal Case against him. The
Assistant Session Judge South Kanara, Mangalore who tried the case
convicted Sri.Fernandez on 4-7-'42 and sentenced to undergo Rigor-
ous imprisonment for one year. Therefore Sri.Fernandez was
dismissed from Service not on the false reports by the current
officers like Sunita as alleged, but because Sri.Fernandez was
awarded Rigorous imprisonment by both the Assistant Sessions
Judge and the Sessions Judge South Kanara Mangalore.

Para 4 to 6:- I have no remarks to offer as the facts mentioned
in these paras do not relate to this Department.

Para 7:- The statement that this Department has to cope up into
the work with unqualified and untrained hands in his vacancy is
not a fact. All the teachers working under the Asst.Director of
Fisheries Mangalore where the petitioner was serving are trained tea-
chers. There are 7 Fisheries Secondary trained and 33 Fisheries
Higher Elementary trained teachers now working in the Mangalore
Division and so the statement that there is only one Fisheries
trained teacher stated to be working at Malpe is also incorrect.

Para 8:- After his dismissal Sri.Fernandez submitted several
appeals to the Director of Industries and Commerce, Madras Government
and other authorities but all were rejected as detailed below.

1. Appeal to the Director of Industries & Commerce Madras, dated
11-9-1943 rejected in Director of Industries & Commerce's memo.
No.9602 FC/43-1 dated 13.10.'43.(Copy enclosed).

2. Appeal to Government rejected in G.O.Ms.No. 3312 Home Dept.
dated 17-12-'43.

3. Appeal to the Secretary, Development Department rejected in G.O.Ms.
No. 4612 Development dated 28.10.'44 (Copy enclosed).

4. Appeal to the Governor of Madras rejected in G.O.Ms.No. 3101
Development Department dated 13-8-'51 (Copy enclosed).

5. Appeal to the Hon'ble Minister rejected in G.O.Ms.No.2721
Development dated 24-6-'47 (Copy enclosed).

P.T.O.

22-3-42
In the circumstances, I do not find any reason to reconsider the case and reappoint him in this Department. Moreover the teacher is now aged 45 years as mentioned by him in para 7 of his petition and on perusal of the ~~xxx~~ previous records I find that the teacher was all along very troublesome and was involved in a very serious Criminal case. I do not ~~think~~ think it is desirable to appoint him. (The enclosures received with the above reference are resubmitted herewith).

25-3-42
A copy of the judgement of the Asst. Sessions Judge passed in his Sessions Case No. 11 of 1942 is hereby enclosed. I have called for the copy of the appellant's judgement in Sessions Case 21/42 on the file sessions judge. On its receipt it will also be submitted.

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Encl. S
103312 Hme
17-12-43
UL/24.3.
For Director of Fisheries,
Madras.

Copy of letter No. 9602 FC/43-1 dated 13th October 1943,
of the Department of Industries and Commerce , Madras to Mr.
L.Fernandez, EX. H.M.Fisheries School, B.Class Prisoner No. 14081
Central Jail, Cannanore, thro' the Asst.Director (Coast) Calicut.

Sub: Petition dated 11-9-43 from Mr.L.Fernandez -
Late Fisheries teacher.

The Director sees no reason to revise the
orders passed in his proceedings D.Dis. No. 3127 -EC/41 dated
29.4.43,

S. S. S. S.

Copy of Proceedings of the Director of Industries & Commerce, Madras

Copy of G.O.Ms.No. 4612, Development, dated 28.10.1944.

(C)

Public Servants - Fernandez L. - Ex-Headmaster - Hejmadikodi
Fisheries School - petition for reinstatement in service -
Rejected -

O R D E R.

The petition is rejected. The Director of Industries
Commerce is requested to inform the petitioner accordingly.

Endt.D.Dis. No.4653 Fc/44, dated 7.11.'44

Communicated to the Asst. Director, Coast, who is requested
to inform the petitioner of the orders of Government.

Copy of G.O.Ms.No. 2721, Development Department, date the 24th
June 1947. (K) 53

Sub: Public Servants - Fernandez.L - Ex-Head Master,
Fisheries School, Hejmadikodi - Petition for reins-
statement - Rejected.

Ref: G.O.Ms.No. 2212 Home, dated 17.12.'42

" 4612 Devel.Department, dated 28.10.44.

" 2001 -do- dated 12-8-'46

- (1) Petition dated 17.12.1946 from L.Fernandez, Ex-Headmaster
Fisheries school, Hejmadikodi and
(2) Letter No.2244 H 5/47 dated 26.5.1947 from the Director
of Industries and Commerce.

ORDER:

The petition is rejected - The Director of Industries
and Commerce is requested to inform the petitioner accordingly.

Endt.No. D.Dis. 224/H5/47 dated 5;7.47

Copy communicated to the Deputy Director (Marine)
Madras. He is requested to inform the petitioner accordingly.

Copy of Proceedings of the Director of Industries and Commerce,
Madras, No. D.Dis. 3127-FC/41 dated 29th April 1943.

Short title: Establishment - Fisheries schools - L.Fernandez
Teacher - Dismissal from service .

Read the following:

1. Letter No.2416 F/41 dated 17-11-1941 from the Asst.
Director, (Coast) Calicut.
2. -do- dated 12-7-'42 -do-
3. Memo.No. 3127 FC/41-5 dated 13-8-42 to the Asst.Director,
(Coast).
4. Letter No.2416 F/41 dated 24-9-'42 from -do-
5. Memo. No.3127 FC/41-6 dated 30.9.42 to -do-
6. Letter No.2146 F/41 dated 20-4-43 from -do-

L.Fernandez, Headmaster, Hejmadikodi Fisheries school has been under suspension since 16-4-41, the date on which he surrendered himself before the Court in connection with a criminal case against him. The Asst.Sessions Judge, South Kanara who tried the case convicted L.Fernandez on 4-7-42 and sentenced him to rigorous imprisonment for one year. The appeal preferred by the accused before the Sessions Judge, South Kanara has been dismissed and the sentence passed by the Assistant Sessions Judge, confirmed. L.Fernandez teacher is, therefore, dismissed from service with effect from 4th July 1942, the date on which he was convicted and sentenced.

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Copy of G.O.^{Ms.}No. ~~22~~ 3101 - Development Department dated
13th August 1946.

Sub: Public Servants - Fernandez.L. - Ex-headmaster -
Fisheries School, Hejmadikodi - Memorial to His
Excellency the Governor for reinstatement - rejected -

ORDER:

His Excellency the Governor declines to interfere.
The Director of Industries and Commerce is requested to inform
the petitioner accordingly.

Endt.No.5479 -A/46 dated 2--9--46.

Communicated to Sri.L.Fernandez, Ex-headmaster,
Hejmadikodi Fisheries school, Thro' the Asst.Director of Fisheries,
(Coast), Calicut.

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Dw F.

Sub - Public Servants - Fernandez Sri L. Ex-Headmaster
Fisheries School, Heymadikodi - Petition for
reinstatement - Rejected

Read again:-

1. 5. 1. 8
2. 7. 1. 8
3. 9. 1. 8
4. 10. 1. 8

Go. No. 3312 Home D) 17.12.43
Go. No. 4612 Dw D) 28.10.44
Go. No. 3101 Dw D) 13.8.46
Go. No. 2731 Dw D) 24.6.47

Read also:-

Petition from Sri L. Fernandez, Ex Headmaster, Fisheries
School, Heymadikodi, (Petition D) 22.8.51
From the D.F. No. 20531 c3/51 D) 21.3.52

ordr no. 1542 Dated. 9-4-52

The Petition is rejected.

9.4.52 Ce
7.4.52

9.5.52

To
Sri L. Fernandez,
Headmaster Aided,
High School,
Kidigoor, Udipi, S. Kanara H.

DEVELOPMENT (F) DEPARTMENT

Sub: Public Servants - Fernandez Sri L. - Ex-Headmaster,
Fisheries School, Hejmadikodi, South Kanara Dt. -
Petition for reinstatement

Ref: From Sri L. Fernandez, Headmaster Aided Elementary
School, Kidiyoor, South Kanara District dated 22-8-51.
Issued as Endorsement No. 94315 F/51-1, dated 31-8-51.
From Sri L. Fernandez petition, dated 23-12-1951.
From the Director of Fisheries Lr. No. 20531 C3/51, dated
21-3-1952.

Extract of minutes of H.M. Food

"Secretary Development, Please call for
a report and Put up

J.L.P.R.V. 26/8/51
H.M.(Food) "

To A. S.

Please see the petition from Sri L. Fernandez,
Headmaster, Fisheries School, Hejmadikodi in South Kanara
District on pp 1-3 of. addressed to the H.M.(Food). The
previous history of the case is as follows:--

(2) The petitioner while in service was charged for an
offence punishable under Section 147 IPC as it was alleged
that on 23-3-41 he took an active part along with his younger
brother and others in way-laying a midwife on her way to
church and by causing voluntary hurt to her by dealing on
her, blows with his fist and by causing criminal intimidation
by threatening to kill her. He was convicted by the Asst.
Sessions Judge, Mangalore for offences under Section 347 IPC
read with Sections 34 323 and 506 IPC and sentenced to one
year's rigorous imprisonment under each of these sections,
the sentences to run concurrently. On appeal the Dt. and
Sessions Judge, S. Kanara upheld the conviction and sentence
passed by the Lower Court, except in respect of the conviction
under section 347, read with section 34 IPC which was altered
into one under section 342 IPC read with Section 34 IPC. The
revision petition filed by the petitioner was also dismissed
by the High Court on 22-6-1943. With reference to his con-
viction in a Criminal Court, the D.I. & C. dismissed the
petitioner ^{from public service with effect from 4.7.42. The Petitioner} submitted a petition to the D.I. & C. for re-
consideration of the orders of dismissal, but that was dis-

~~dismissal, but that was~~
dismissed by the Director on 13-10-43. He had a right of appeal to Govt. but he did not prefer to exercise that right and instead submitted a petition to H.E. the Governor on 29-9-43 to restore him to service. H.E. directed that the petition might be treated as one addressed to Govt. As there was no cause for interference by Govt. the petition was rejected in G.O. 3312 Home dated 17-12-1943. On 29-4-1944 he submitted another petition to Government with the same request, but it was also rejected in G.O. Ms. No. 4612, Devt. dated 28-10-44. In September, 1945 the petitioner submitted a Memorial to H.E. the Governor for restoring him to service and he was informed that H.E. declined to interfere, in G.O. Ms. No. 3101 Devt. dated 13-8-1946. In 1947, the petitioner again presented a petition to the Govt. for reinstating him in Govt. Service which was also rejected in G.O. Ms. No. 2731 Devt. dated 24-6-1947.

3. In the present petition on pp 1-3 of the Petitioner has stated

- (i) that he had no real connection in the Criminal case referred to in para 2 above and that the Police had concocted and fabricated the prosecution story
- (ii) that the D.P.I. and the Divisional Inspector of Schools had absolved him of the criminal offence and made him eligible for Govt. Service.
- (iii) that the Fisheries Department has to cope with the work with unqualified and untrained hands in the place of the vacancy caused by his dismissal
- (iv) that he possesses a strong constitution that he is only 45 years of age and that he could work for another 15 years.
- and (v) that he may be restored to the Fisheries Subordinate Service.

Item (i) above:--

The D.F. has stated that Sri Fernandez was dismissed from service not on the false reports by the corrupt

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- 118
C. P. 26
F. 216
✓ 118
P. 216
P. 15-20
(K)
A' 118
para 5 118
para 7 118
M' 118
para 8 118
M' 118

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Dec 10 - 4.15 - 1.4

police officers as alleged; but because he was awarded rigorous imprisonment by Criminal Court.

Item 2 above:--

The D.F. has no remarks to offer as the facts mentioned do not relate to this Department.

Item 3 above:--

The D.F. has stated that all the teachers working under the Asst. Director of Fisheries, Mangalore, where the petitioner was serving, are trained teachers, that there are 7 Fisheries Sec. trained and 33 Fisheries H.E. trained teachers now working in the Mangalore Division and that the statement that only one Fisheries trained teacher is working at Malpe is not also correct.

Item 4 above:--

The Director has stated that the petitioner is already 45 years old and that ^{on} perusal of the previous records he was found to ^{be} all along very troublesome and was involved in a serious criminal case and that it is not desirable to re-appoint him.

Item 5 above:--

After his dismissal Sri Fernandez submitted several appeals to the D.I. & C and the Govt. all of which were rejected. The Director of Fisheries has stated that he does not find any reason to reconsider the case and re-appoint him in the Fisheries Department.

4. In the circumstances, it is for orders whether this Department may agree with the views of the Director of Fisheries and the petition rejected. For orders

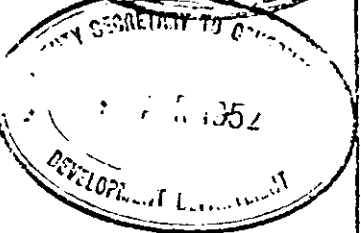
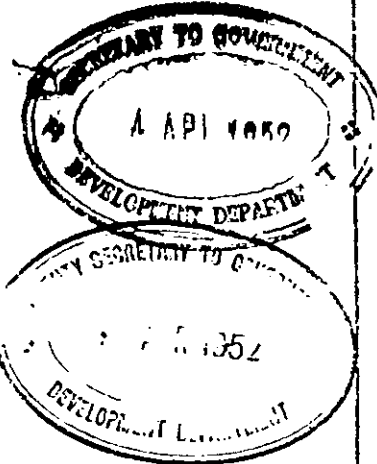
5. The case may be circulated to H.M. (Food)

31.3.52
1.4.52

Let DS!
24.5.52

The petition may be rejected

3/4
14. m. (Food)



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Deaf.

To AS

orders in circulation or 3 above

may be perused. A draft order is submitted for approval.

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[Indas 208 no. 1542 subd 9-4-52] f59 11/4

ASSESSOR CASE.

In the Court of Sessions, South Kanara.

June Sessions.

Saturday, the 4th day of July 1942.

PRESENT:—SRI T. D. RAMAIYA PANTULU, M. A., B. L.,
Assistant Sessions Judge.

Sessions Case No. 11 of 1942.

NAMES OF THE ACCUSED

1. Maurice Fernandez
2. Liguory Fernandez
3. Poka *alias* Francis Andrade 10
4. Poova Poojari
5. Bona Fernandez

CHARGES

- I. Rioting—Sec. 147 I.P.C. }
- II. Wrongful confinement } *Against all.*
with the common inten- } *the accused.*
tion of extorting valu- }
able security.—Sec. 347 }
read with Sec. 34 I.P.C. }
- III. Rioting with a deadly } *Against 1st*
weapon—Sec. 148 I.P.C. } *accused only.*
- IV. Voluntarily causing hurt }
by dangerous weapon— }
Sec. 324 I.P.C. }
- V. Voluntarily causing hurt } *Against the*
Sec. 323 I.P.C. } *2nd accused.*
- VI. Criminal intimidation— } *Against accu-*
Sec. 506 I.P.C. } *sed 1 and 2.*

ASSESSORS

- MESSRS. 1. Abdul Hammid Khan
(Muhammadan) 30
2. U. Govinda Rao (Brahmin)
3. Abdul Khadir Saheb
(Muhammadan)
4. Mukunda Kamath (G. S. Brahmin)

OPINION OF ASSESSORS

Assessors 1, 3 and 4 were of opinion that none of the accused is guilty of any of the charges.

The 2nd assessor was of opinion that accused 1 and 2 alone are guilty of all the charges framed against them, and that the other accused are not guilty 40
of any of the charges.

FINDING OF THE JUDGE

Accused 1 and 2 are guilty under Sections 347 read with Sec. 34 I.P.C., and under Sec. 506 I.P.C., and the 1st accused under Sec. 324 and the 2nd accused under Sec. 323 I.P.C., and not guilty of the other charges.

Accused 3 to 5 are not guilty of any of the charges framed against them.

SENTENCE AND ORDER

10

Accused 1 and 2 are sentenced to rigorous imprisonment for one year under Sec. 347 read with Sec. 34 I.P.C., one year under Sec. 506 I.P.C., and the 1st accused for one year under Sec. 324, and the 2nd accused for one year under Sec. 323 I.P.C., the three sentences in the case of each to run concurrently.

Accused 3 to 5 are acquitted and ordered to be set at liberty.

20 Accused 1 and 2 were defended by Sri B. Narsinga Rao, Advocate.
Accused 3 and 4 were defended by Sri K. Uggappa Shetty, Advocate; and
accused No. 5 was defended by Mr. C. L. Lobo, pleader.

The case was committed to the Sessions Judge, South Kanara, by Sri H. Narasimha, Sub Magistrate, Mangalore, in R. C. No. 7 of 1941 on his file, and was transferred by the Sessions Judge to this Court for trial.

J u d g m e n t .

1. There are five accused in this case. They are charged with being members of an unlawful assembly, and committing in prosecution of the common object of obtaining thumb-impressions of one Josephine Pinto on pieces of papers and post cards, the offence of rioting punishable under
30 Section 147 of the Indian Penal Code, on the 23rd of March 1941 in Karnire village in Mangalore Taluk. All of them are also charged of wrongfully confining Josephine Pinto on the same day and at the same place for extorting from her thumb-impressions on pieces of papers for use as valuable securities, and so, committed an offence punishable under Section 347 read with Section 34 of the Indian Penal Code. In addition to these charges, the 1st accused is charged under Section 148 of the Indian Penal Code as well, on the ground that he committed the offence of rioting with a deadly weapon on the same date and at the same place. He is also charged with having voluntarily caused hurt to Josephine Pinto by
40 shooting at her with a revolver having a blank cartridge, and so committed an offence punishable under Section 324 of the Indian Penal Code. He is also charged with the offence of criminal intimidation on the ground that he threatened Josephine Pinto to kill her with intent to cause alarm to her or cause her to give thumb-impressions to pieces of papers or post cards, an offence punishable under Section 506 of the Indian Penal Code. The 2nd accused who is the elder brother of the 1st accused is also charged with an offence punishable under Section 506 of the Indian Penal Code. He is also charged with the offence under Section 323 of the Indian Penal Code on the ground that he voluntarily caused hurt to Josephine Pinto by

dealing on her fist blows on the same date and at the same place.

2. The case was tried with the aid of four assessors whose opinions are set out hereunder:—

Assessors 1, 3 and 4 are of opinion that none of the accused is guilty of any of the offences with which they are charged.

The 2nd assessor is of opinion that accused 1 and 2 are guilty of all the offences with which they were charged, but that the other three accused are not guilty of any of the offences with which they were charged.

3. The complainant Josephine Pinto is a midwife in the Phalmar Rural Dispensary. The 1st accused was an Excise Sub-Inspector working in the Udipi Range at the time of the occurrence. The 2nd accused is the elder brother of the 1st accused. He was a teacher in a school for the fishermen community in Hejamady. 10

4. The case for the prosecution is briefly this: On Sunday the 23rd of March last year, Josephine and her maid Christina Demello started from Phalmar at about 6-30 in the morning to attend the Catholic Church in the village of Balkunje. The foot-path goes by the village of Karnire, where there is a school a few yards away from the path. When they came along the path about a mile and a half from Phalmar, at about 7 or 7-30 A.M., the 4th accused appeared in the path about 20 yards away and then left. Three or four minutes later, the 2nd accused came and said he had to speak to Josephine and asked her to stop. She told him to come to her house if there was anything to talk. Thereupon the 2nd accused caught hold of her right hand and closed her mouth with his other hand. Accused 1, 3, 4 and 5 came behind the 2nd accused, and the 1st accused held her left hand, while the other accused also held her. The 1st accused tied a cloth round her mouth. Then all the accused lifted her to carry her to a jack tree about 20 yards off the path. The maid Christina got terrified, cried out and ran back along the path they came by. Josephine was made to sit near the tree and the accused sat or stood round her and held her. The 2nd accused tied a cloth round her mouth again as she had untied it. Accused 1 and 2 asked her to keep quiet and threatened they would kill her if she cried out. The 2nd accused then gave her blows with his fist two or three times causing her pain. The 1st accused then took out a pen and told her to sign some white papers and post cards. Josephine refused to do so even though she was killed. Then one of her gold bangles was removed by the 1st accused, while the gold ring was taken off her finger by the 2nd accused. The 1st accused then took out a pad, smeared some ink on her left thumb and compelled her to affix her thumb-impressions on 4 or 5 papers and 4 or 5 post cards. The accused were holding her all the time she was compelled to affix the impressions, and during the struggle her rolled gold chain, a glass bangle and a rosary got snapped and broken. 20 30 40

5. Christina who had run back met Isadore Souza and told him that her mistress was carried to a tree by five persons. Isadore came and stood on an elevated place overlooking the tree and chastised the accused for their high-handed and rough conduct towards Josephine. The 1st accused then resented Isadore's interference and fired his revolver at him.

Thamani Sapalya who was called by Isadore also came up and tried to remonstrate with the accused. The 1st accused then came near Josephine and shot at close range of about 2 inches on the left side of her head with the same revolver. The accused then ran away. Josephine sustained a bleeding injury and her saree and blouse and a mundu of the 1st accused which she had snatched during the struggle got stained with blood. Isadore, Thamani Sapalya, Christina and Thimma Shetty approached Josephine who had fallen under the tree. Isadore asked her who were the assailants. Then she gave the names of the 1st and the 2nd accused and
10 said she did not know the others. She was helped by Isadore and Thamani to move from the place to the ferry which they had to cross to go to Phalmar. She became giddy or unconscious on the way, but recovered and was taken to a boat near the ferry.

6. The Patel who had been sent for came and recorded her statement between 10 and 11 A.M. She was then taken to the Dispensary at Phalmar where she was midwife. The doctor was not in the hospital at the time, but came soon afterwards, saw the bleeding injury and plugged some sterilized gauze in the wound to stop bleeding. The Phalmar doctor then took her to Moolky. They went first to the Mulky Police Station and
20 met the Sub-Inspector of Police who saw the injury sustained by her and also the ink smears on her left thumb and palm and made a yadast about it. He advised her to be taken to the Moolky Hospital. That was done and the Moolky Medical Officer examined her injuries, attended to them and gave a wound certificate at 5-45 P.M., the same evening. The Patel's statement and the reports were received at the Police Station Moolky at about 5-30 P.M. That very night the Sub-Inspector took Christina, Isadore and Thamani Sapalya to the scene of offence and examined it. He recovered some pieces of glass bangles, some rosary beads, an hair pad, hairpins and so on on the spot for which a yadast was prepared. The
30 next day, the Sub-Inspector seized the mundu used by Josephine Pinto to wipe the blood of her injury, and which she had snatched from the 1st accused.

7. On the 25th of March at-about 9-30 A.M., the 1st accused was arrested at Udyavar. A search was made at his Udyavar house, but nothing was recovered. A search was also made at his Udipi residence in a locality called Kinnimoolky, where a revolver, certain blank cartridges and ball cartridges and other articles were found and seized. The 3rd accused was arrested on the 30th of March. The 4th accused was arrested on the 4th of April. A charge-sheet was laid against the accused on the
40 9th of April. The 2nd accused surrendered himself before the Magistrate on the 16th of April. The 5th accused was arrested in Bombay, and was produced before the Magistrate on the 21st July 1941.

8. Before going into the evidence, it will be necessary to state a few undisputed facts which may help in the appreciation of the evidence from the correct perspective. Josephine was living in Mangalore with her mother and going to school in the year 1935. She was about 16 years old then. The 1st accused happened to be a neighbour of hers and they got to know each other. Acquaintance grew into friendship which in turn developed into intimacy. Josephine became *enceinte* and at the

intercession of mediators the 1st accused executed a letter promising to marry her and so put matters right. He did not do so, and after a preliminary skirmish in the criminal court which went against Josephine, she filed a suit O.S.No.147 of 1936 in the Mangalore Munsif's Court, for the recovery of Rs. 1,500 by way of damages for breach of promise of marriage. The learned District Munsif in the judgment Exhibit N dated 22nd September 1938 dismissed the suit. Josephine appealed against the judgment and the appellate Court reversed the judgment of the 1st Court and passed a decree for the sum claimed by her. That was on the 3rd December 1940 as Exhibit N(1) shows. On the 27th January 1941, Josephine filed a petition in the Mangalore Munsif's Court, Exhibit C, for transmission of the decree to Udipi as the 1st accused was employed there at the time. That was ordered on the 29th of January 1941. Then she filed an execution petition in the Udipi Munsif's Court, Exhibit D, on the 17th of February 1941. That was for attachment and sale of the moveables of the 1st accused and for arrest. Attachment was at first ordered, but the petition itself was dismissed on the 11th of March 1941 for the reason that Josephine did not render any help to the process server for getting the property attached. The next execution petition, Exhibit E, dated 24th of March 1941 was actually filed into Court on the 29th of March. That again prayed for the arrest of the 1st accused, and the Court ordered on the 31st of March notice to issue to the 1st accused for the 5th June. As the 1st accused was absent, arrest was ordered for 8th July, but the petition was dismissed on the 8th July as baṭṭa was not paid. It must be remembered that the execution petition, Exhibit E, purports to have been prepared and signed the very next day after the date of the alleged offence on the 23rd of March 1941. I must also mention that on the 7th of June 1941, a petition Exhibit P was filed by the 1st accused in the Mangalore Munsif's Court, for recording full satisfaction of the decree on the ground that a sum of Rs. 1650 was paid in full settlement on the 9th of March 1941 to Josephine and a receipt obtained. Notice was ordered on that petition on the 10th of June, for the 4th of July, when counter was directed to be filed for Josephine. Counter was filed on the 18th July stating that no money was paid and that no receipt was passed by her. Curiously enough the receipt referred to in the petition was not filed into Court, and the Court remarked that in spite of several adjournments, it was not produced, and directed its production before the 28th July. The receipt Exhibit VII bears the seal of the District Munsif's Court dated 26th July 1941. No further action was taken in the Munsif's Court, since the criminal case was started and the papers were summoned by the Magistrate.

9. I might also mention at this stage the motive alleged by the prosecution for the 1st accused committing the offences with which he is charged. It is said on account of the pressure of Josephine demanding her decree amount by filing execution petitions, he was anxious to get her thumb-impressions to blank papers in order to use them for forging a receipt as evidence of the complete discharge of the decree.

10. It may be useful to refer to the plan of the scene of offence, Exhibit JJ, prepared by the Sub-Inspector for use in this case, after his

visit to the locality. It is not drawn to scale, but it gives a rough idea of the relative positions of the places. The foot-path from Phalmar to Balkunje is noted. The distance between the path and the jack tree is given as 40 yards. The elevated place from which Isadore and others saw the offence, lies to the south of the tree and is also noted in the sketch. The distance from the tree to a small hillock on the west is 35 yards, and from there the distance to the Karnire School marked as T is 95 yards. There are a few houses marked as H1, H2 and H3 lying at 150, 165, and 220 yards from the jack tree. They are not visible from the field.

11. I will next deal with the evidence adduced for the prosecution with respect to the occurrence on the 23rd of March 1941. It will be necessary to see whether in the first place, there was any such occurrence as narrated by Josephine and certain of the prosecution witnesses, and secondly whether the accused or any of them took any part in it and are guilty of the charges levelled against them. Josephine narrated, briefly speaking, the following facts. She and her maid left her house in Phalmar on the morning of Sunday the 23rd of March to go to a church in Balkunje village about 3 or 4 miles away from Phalmar. She was wearing the saree M.O.No.1 at the time, and the blouse M.O.No.2. She had some bangles on her right wrist, two of which were of gold and one of glass. She had put on a rolled gold chain on her neck and had also a rosary and Bible with her. When they came near the Karnire School which is about 1½ miles from Phalmar, the 4th accused met them at some distance, but disappeared. The 2nd accused then came and the other accused, viz., A1 and A3 to 5 were behind him. The 2nd accused asked her to stop saying that he had something to say to her. She told him to go to her house if he had anything to speak. Then the 2nd accused caught hold of her right hand and closed her mouth with his other hand. The other accused including the 1st accused held her. A cloth was tied round her mouth and all the accused lifted her bodily and carried her to a jack tree situate about 20 yards away from the path. Meantime the girl Christina got alarmed and ran back. Josephine untied the cloth round her mouth, but the 2nd accused again tied it up. When she remonstrated accused 1 and 2 told her peremptorily to keep quiet and threatened they would kill her if she raised cries. The 2nd accused also hit her with his fist two or three times which, she says, caused her pain. Then the 1st accused took out a pen and asked her to sign some white papers and post cards, but she declined to do so even if she was killed in the process. One of the gold bangles and the ring were taken off her hand by the 1st accused and the 2nd accused. A struggle ensued and her rolled gold chain got snapped, the glass bangles broke, and the rosary also got snapped and fell in pieces. The 1st accused took out a pad, smeared some ink on Josephine's left thumb and took her thumb-impressions by force and against her will, as she says, to four or five papers and four or five post cards. When this was done all the five accused were holding her firm. Meantime, attracted apparently by the cries of Christina, Isadore Souza came on to an elevated place a few yards from the jack tree, chastised the accused telling them not to be high-handed and rough to a woman. The 1st accused resented interference, told Isadore Souza to mind his own

business and fired a revolver at him. Isadore called to Thamani Sapalya and they both again remonstrated with the accused. Josephine was shouting and crying out all the time. The 1st accused then came near her and shot at her at the very close range of about one or two inches, on the left side of her head. The accused then left the place. During the struggle, she snatched at a mundu (M.O.No 5) worn by the 1st accused on his shorts. She suffered a bleeding injury and had also pain on her body on account of fist blows. She fell down as the result of the injury and Isadore, Thamani Sapalya, Christina and one Thimma Shetty came near the place where she was lying. Isadore asked her who the assailants were. She told him the names of the 1st and the 2nd accused, but not of the others as she did not know. She was helped to go towards the ferry, but on the way became giddy or unconscious for some minutes. She was given a drink and then taken to the ferry and put in a boat. The Patel was then sent for. He came and recorded her statement in the boat. It is Exhibit F. She was then taken to the Phalmar Rural dispensary, and later to the Moolky Police Station and the Moolky Hospital where she was an in-patient for about 11 days. She denies, of course, the suggestion of the defence counsel that the injury was artificially simulated with the help of the Phalmar doctor at the Rural Dispensary, and that he put some black powder into the wound.

12. This evidence is substantially corroborated by Christina (P.W.2) who is the maid of Josephine. She is a girl of 11 years age, and has been working under Josephine for some time before the occurrence. She too stated how they started for the Church on the 23rd morning at about 6-30 from Phalmar, and how they met the 4th accused first and then the other accused, and how they caught hold of Josephine, beat her and threatened her. She saw also that a cloth was tied round the mouth of Josephine. When they lifted her and were carrying towards the jack tree, she got so alarmed that she ran back by the way they came shouting out. The accused threatened to kill her also, but she ran away. A few yards from the place of occurrence, she met Isadore and told him that five persons were beating and ill-treating Josephine. Then Isadore came back to the place of occurrence and stood on an elevated place overlooking the jack tree. The girl, Thamani Sapalya and one Thimma Shetty followed Isadore at some distance behind. She heard while going to the place of occurrence a gun shot and when she went, she saw Josephine seated under a jack tree surrounded by the accused who were holding her and the 1st accused was taking thumb-impressions to some papers from Josephine. She then spoke of the 1st accused coming very near Josephine and shooting at her with what she called a pistol at close range. When she was asked to show which side of Josephine's head was injured by the shot, she showed at first the right side of her own head, but later corrected herself and said it was the left side. Considering that the girl is quite young and illiterate, a mistake of this kind, especially when corrected immediately afterwards, cannot be adversely commented upon. She said that the revolver used by the 1st accused looked like M. O. No. 4. She stated also that when Isadore asked Josephine who caused her injuries, Josephine gave the names of accused 1 and 2, but not of the other accused. She spoke also about the Sub-Inspector

taking her to the scene of offence that very night, along with the Patel, Isadore and Thamani Sapalya. She was also examined by the Police on the way, and when they searched at the scene of occurrence, they found some rosary beads, glass bangle pieces, hairpins and an hair pad which are marked M.O. Nos. 11, 10, 9 and 8. There is some discrepancy between the evidence given by her before the Magistrate and in this Court on the point as to when exactly she left the scene of offence and ran back, and also on the point as to when she came to know of the names of Isadore, Thamani and Thimma Shetty. It appears to me, however, these are not matters of any great importance. Even assuming that she did not actually see Josephine being lifted and carried away to the tree, she actually saw her under the tree upon her return. One point, however, is quite clear, viz., that she did not actually see the first shot being fired at Isadore, whoever may have done it. As regards thumb-impressions, she says that she saw the 1st accused taking them after she returned to the place. The process must have taken some little time and there is nothing inconsistent between her evidence and that of Josephine on the point.

13. Next there is the evidence of Thimma Shetty (P.W.3) who was also present when the second shot was fired and later at the scene of occurrence according to Josephine and Christina. He was baling water along with Thamani Sapalya and when Isadore called Thamani when Christina came running he too went with them to the scene of offence. Isadore ran in advance and stood at an elevated place, while the others were a few yards behind them. He heard the first shot, but did not see who fired it. When he went near the elevated place, he heard the second shot fired at Josephine by the 1st accused at close range. He also saw the thumb-impressions being taken by the 1st accused from P.W.1. He described how the 1st accused held Josephine's head with one hand and how he shot at her with the revolver holding it about an inch from the head on the left side. Then Josephine told them the names of accused 1 and 2 as the persons who assailed her, but not that of the others. He appears to have stated before the Magistrate that Isadore told him that someone of the accused shot at him, though he said here that Isadore mentioned the 1st accused as the person who shot him. Since the witness was not present when the first shot was fired, and since he merely heard the shot, I do not think the discrepancy is very material. As regards the second shot, he appears to have at first said before the Magistrate that someone of the accused shot Josephine, but later said that he saw the 1st accused shooting her. In the statement that he made under Section 164 Cr.P.C., before the Tahsildar, which has been marked for the accused as Exhibit X, he stated that when he ran and stood on the wall and looked, he saw five persons standing and taking the thumb-impressions of Josephine, and that they went away after the shot was fired with the pistol. She then told him and the others that two persons took her thumb-impressions, that she said that one was an Abkari Sub-Inspector and the other, his elder brother, but did not know the other three. He also said that Josephine told the Patel all that had happened. As this is a statement under Section 164, it cannot be used as substantive evidence against the accused, but can be used for the

purpose of contradicting the witness. Apart from immaterial trifling discrepancies, the evidence of P.W.3 goes to corroborate Josephine and Christina on material particulars. He was not present at the first gun shot, but he heard it. He saw thumb-impression being taken by force from her. Whether it is the 1st accused or someone of the accused that did so can be gathered from other evidence. He also saw the second shot being fired at Josephine. It is true, his name does not appear in the first information report; but considering the confused state of mind and the physical condition of Josephine soon after the occurrence, an omission of this kind could easily be understood. The Sub-Inspector of Police as a matter of fact examined P.W.3 on the 26th of March. 10

14. I will next refer to the evidence of Isadore Souza who was examined as a Court Witness, since I thought his evidence would be very material one way or the other, since according to the prosecution he witnessed the occurrence. He gave a statement under Sec. 164 Cr.P.C., and was later examined by the prosecution before the committing Magistrate. During the course of the examination, permission was granted for cross-examining him on the ground that he had turned hostile. His evidence in this Court is briefly as follows. When he started to go to the Church on the morning of the 23rd of March 1941, at about 7-30 he saw 20 a girl running towards him, and that was Christina, and she told him that someone caught hold of her mistress the Phalmar midwife, but that she did not know or recognize who were the assailants. He called Thamani who was baling water closeby, and then went and stayed at a place overlooking a jack tree. Josephine was seated under the tree with 5 persons around her. He chastised them and asked them to release her. One of the five persons came forward and shot at him. He got terrified and ran back a few yards when he met Thamani Sapalya and they came back to the elevated place. Then they heard a gun shot aimed at P.W.1. He later modified this statement and said that he saw one of the accused 30 shooting at Josephine with a revolver. He saw, of course, along with the others a bleeding injury on the head of Josephine and actually saw blood oozing out of the injury. He denies that he then asked Josephine as to who the assailants were. He was certain that he did so at the Moolky Hospital on the 3rd day after the occurrence. As regards the taking of the thumb-impressions, he denied that he saw Josephine affixing any thumb-impressions to any papers at the instance of any of the accused, but says that she told him that her thumb-impressions were taken and that he believed her. The statement made by Isadore under Sec. 164 Cr. P.C., was filed in order to discredit his evidence. But I am of opinion 40 that none of the statements then made, can be used as evidence against the accused. I do not therefore propose to refer to it. It appears to me, however, that the evidence given by Christina, Josephine and Thimma Shetty on the point is more natural and probable than what Isadore said. It is impossible to think that if Isadore witnessed the actual occurrence and saw some one shooting Josephine with a revolver, that he would not have asked her soon after the incident as to who the assailants were. It is hardly possible that he would have waited for three days before putting the question to her. As regards the question of thumb-impressions, it is quite possible that 50

Isadore was not present all the time when the thumb-impression pad was taken out and Josephine was compelled to put her thumb-impressions to various blank papers and post cards. It is not a matter of great importance since Isadore was actually told by Josephine at the time immediately after the accused left the place, that the accused or some of them took her thumb-impressions by force and against her will. Isadore himself said that he believed her and there is no reason to think that Josephine had any motive to invent a tale to narrate to Isadore so soon after the occurrence. One other matter is also clear from his evidence, viz., that there were five persons excluding Josephine, under the jack tree. It will be seen therefore that there is a substantial corroboration of the prosecution case from Isadore's evidence, though on some points the evidence of P.Ws. 1 and 2 is preferable to his.

15. Next I will deal with the evidence of another eye-witness Thamani Sapalya. He was at first examined under Sec. 164 Cr.P.C., and was later summoned for the prosecution before the committing Magistrate. As he has died since then, his deposition before the committing Magistrate is marked as Exhibit BB. He was also treated as a hostile witness and cross-examined. Here again, I do not propose to refer to the statement he made under Section 164, as I consider it inadmissible. He said that he saw Josephine and her maid going along the foot-path to Balkunje from Phalmar one Sunday morning. He was baling water from a picotta when Isadore Souza called him saying that the midwife was caught hold of by four or five men, and that he was shot at by one of them with a revolver. Then Thamani and Isadore went near the scene of offence and while nearing the place, a shot was heard. He says that he did not see actually who fired the revolver, but saw four or five persons running away. When he went near the place where P.W.1 had fallen under the jack tree, he saw that her head was injured and that it was bleeding. She told them that one of her bangles and a ring were taken away, that her thumb-impressions were also taken though she did not give the names of the assailants. The names of the two assailants i. e., the 1st accused and the 2nd accused, were he says given to him by Josephine in the Moolky Hospital on the 3rd day of the occurrence. He denies also that Thimma Shetty was present at the occurrence. So far as the question of Josephine's mentioning the names of accused 1 and 2 and also as regards the point about the thumb-impressions, his evidence is the same as Isadore's. The comment made on Isadore's evidence applies equally to his. As I said, it is impossible to believe that either Isadore or one of the others present, would not have asked Josephine immediately after the occurrence as to what happened and who participated in it. Here again, it does not really matter whether Thamani Sapalya actually saw the thumb-impressions taken, if as a matter of fact Josephine told him and the others that her thumb-impressions were forcibly taken by the accused or some of them, soon after the occurrence and at the scene of offence.

16. I will next deal with the prosecution evidence relating to certain events that happened after the offence, which may throw light upon the case. I have already referred to the evidence that Josephine was helped by Isadore and Thamani to go up to the ferry. The Patel was sent for

and he came and took down her statement in a boat at the ferry. The statement is Exhibit F and it was taken at about 10 A.M., on the 23rd. Josephine mentioned to the Patel in this Statement all the essential incidents to which she deposed in this Court. She gave also the names of Maurice Fernandes and Liguôry Fernandes (accused 1 and 2) as the persons who took part in the occurrence along with three other persons whose names she could not give. If she gave the names of accused 1 and 2 at 10 A.M., to the Patel, it does not appear to be a matter of very great importance whether she actually gave the names to Isadore and Thamani Sapalya, though I am of opinion that she did tell them soon after the occurrence. She speaks also in the statement about the first accused obtaining her thumb-impressions to four or five blank post cards and four or five blank papers. She mentioned also that there were black smears on her left hand thumb and palm, and showed them to the Patel who admits having seen it, in his evidence before me. That was to corroborate her statement that her thumb-impressions were taken to blank papers and cards. The part taken by Isadore Souza and Thamani Sapalya in the incident was mentioned in the statement, though it must be said that Thimma Shetty's name is not specifically referred to. She further referred to the mundu which she snatched from the 1st accused and showed the Patel her bleeding injury and her blood-stained saree and blouse. Apart from the omission of Thimma Shetty's name in Exhibit F, there is no mention made in it that Josephine was carried to the jack-tree a few yards away from the foot-path, and that some of the incidents took place there. This omission cannot be said to be altogether immaterial, but is, in my opinion, understandable considering the confusion and agitation as also the physical condition of Josephine at the time the Patel took down her statement.

17. The Patel (P.W.4) whose respectability nobody has questioned, says that he finished writing the statement by about 11 A.M., and then went to his house and prepared a copy of it and also two reports, Exhibits L and L-1, for sending them to the Police and the Magistrate. He went to the scene of offence that night along with the Sub Inspector of Police, the maid Christina, Isadore and Thamani Sapalya. It was then that certain articles were found at the scene of offence, such as hairpad, hairpin and rosary beads, which were seized by the Police. He attested the yadast in respect of it—Exhibit M. A suggestion was made that the statement was not written near the ferry, but later at the Phalmar Hospital. The Patel denies the suggestion and there is no ground at all to disbelieve his evidence on the matter. Some point was made as regards the delay in the statement and the report reaching the Police Station. The Patel finished the copy and the reports by about 12 noon and entrusted them to the ugrani P.W.5. P.W.5 says that he had gone to a village for service of a notice that morning, that it was late when he returned, and that he took food and then went to the Moolky Police Station. Although he could have reached Moolky about 4 miles away earlier than 5-30 P.M., I do not think anything very material turns upon the small delay, since the report reached the Police Sub Inspector the same evening and since the latter started investigation that very night.

18. After Josephine gave her statement to the Patel, she and her

maid were taken to the Phalmar Dispensary. It was in that Dispensary that she was working as a midwife. The doctor (P.W.10) was at his house which is only a hundred yards from the dispensary, when Isadore Souza came to call him at 11-30 or 12 noon. Isadore told the doctor that five persons waylaid the midwife and that they forcibly took her thumb-impressions and caused injury to her. He then went to the dispensary and saw Josephine. She told him that the wound was caused by a revolver shot, that five people assailed her, and among them she gave the names of the 1st and the 2nd accused. He saw the injury on the left side of her head which was bleeding still, and that it was also charred. He placed some sterilized gauze over the wound to stop the bleeding, and then at her suggestion, he intended to take her to the Mangalore Lady Goschen Hospital. He went with her first to the Moolky Police Station which they reached at about 3-30 P.M. The Sub Inspector was present at the time. He too saw the injury and the ink smears on her left thumb and palm and made a yadast about it. Then upon the advice of the Sub-Inspector, Josephine was admitted to the Moolky Hospital. A suggestion was made for the accused that this witness was taking more than ordinary interest in Josephine and her case. Having seen him in the witness-box, it seems to me that there is no ground at all for any such suggestion. It must be remembered that the witness was the medical officer in charge of the Phalmar Rural Dispensary to which Josephine was attached as a midwife. She was not a servant of the Medical Officer, but of the District Board who paid her salary. When the midwife attached to the Dispensary was injured and when she came and complained to him, is there anything unnatural or out of the way in the Medical Officer accompanying her for the purpose of getting her admitted as an in-patient in a hospital? I might mention that the Rural Dispensary has no beds, and does not take in-patients. Some comment was made as to why he did not attend to the injury and make a written note of its condition when he saw it. It appears to me that he did the most prudent thing possible in the circumstances, since there was no sense in meddling with an injury of that kind unless the patient was going to be under his observation and attention until she was cured. He attended to the immediate care that was needed viz., stopping the bleeding, and took her without further delay and got her admitted into the Moolky Hospital. It is true he went on the 24th of March, the next day after the occurrence, to the Inspector of Excise of Udipi, who was the immediate superior of the 1st accused at the request of Josephine's mother and one Mr. Sequeira. Here again, there is nothing strange in his conduct. What he did was nothing more than a manifestation of common friendliness. There is therefore no ground for discrediting the evidence of P.W.10 so far as it goes.

19. Next there is the evidence of the Medical Officer of the Moolky Hospital, Dr. U. S. Nayak (P.W.9). He saw Josephine at 5-45 P.M., on the 23rd of March and examined her there alone. He found four injuries on her person of which the most serious was injury No. 1. It was a contused lacerated and charred wound 6/8" x 1/8" and 3/4" deep towards the inner side and back, situate on the left parietal bone 3" vertically above the left ear. He found the edges of the wound were lacerated,

inverted and charred, and the wound ran nearly parallel to the middle line of the head. The second injury was pain on the left fore-arm due to rough handling. He saw some swelling and tenderness about the middle and the lower third of the left fore-arm.. The third injury was pain on the back due to beating with fist. There was slight tenderness present. The fourth injury was pain on the right and the left cheeks due to tying with a cloth. The Medical Officer was of opinion that the injuries were simple, unless complications arose. She was brought there with a letter of requisition from the Sub-Inspector, Moolky, and the certificate Exhibit Q contains a note in the appropriate column that the injuries were caused on the 23rd of March 1941 at 7-15 A.M., in Karnire village and that they were due to rough handling and firing with a pistol. Josephine was in the Moolky Hospital until the 3rd of April 1941 when she was discharged. The doctor was of opinion that injury No. 1 could have been caused by firing a revolver with a blank cartridge at close range. He found the hair and the skin around the wound were also charred and thought that the charring was the result of shooting at close range with blank cartridge. He did not find any wad in the injury, and no wad was, as a matter of fact, found at the scene of offence. From the wads opened out in Court and available in Court, it will be seen that it is a card-board affair and is of a very small size. It could easily have been blown off by the wind before the Sub-Inspector of Police went to the scene of offence on the night of the 23rd.

20. The Medical Officer sent at the request of the Magistrate, the hair tissues and other clippings for examination by the Chemical Examiner. The report of the Chemical Examiner, Exhibit AA, shows that the bunch of dark hair contained traces of black powder (i.e., gun-powder). The barrel washings of the revolver M.O. No. 4 also contained black powder. Similarly, it was also found in a blank cartridge of .45" bore that was sent to the Chemical Examiner. Though the Sub-Inspector did not examine the barrel of the revolver soon after the occurrence to see if it contained any burnt or unburnt gun-powder, the report of the Chemical Examiner shows that it contained black gun-powder. It is true the Chemical Examiner was requested to report as to the nature of the powder, but that does not appear to have been done. It is not of great consequence, since after a revolver is fired, there may be some unburnt powder and also a residue as the result of a firing, and the Chemical Examiner has detected the existence of black gun-powder in the barrel.

21. The Prosecution has also examined the District Medical Officer of South Kanara, as to whether injury No. 1 mentioned in the wound certificate Exhibit Q could have been caused in the manner alleged for the prosecution by firing a revolver with a blank cartridge at the very close range of one or two inches. The District Medical Officer did not see the patient, nor is he an expert in fire arms. He was, however, of opinion that when a person is shot with a blank cartridge, the hair round about the injury will be singed, and that the charred portions of the hair and the stump may possibly remain after the injury was caused. He said that a blank cartridge was one loaded with powder and without a wad; but that, of course, cannot be correct since there must be some

sort of protection like a wad against the powder falling out. The opinion of the Arms Expert to which I will refer, will make this clear. So far as it goes, the evidence of the District Medical Officer corroborates the other medical witnesses examined.

22. I will next deal with the evidence of the Fire Arms Expert who was examined as a Court witness. He conducted two experiments in open Court to demonstrate the effect of firing a revolver with blank cartridge at a very close range of 2". One was a direct shot and the other, an angular one. He tied together six pieces of card-board to a thickness of 1/4". He tied them firmly with a cord and fixed the whole thing against the iron bars of a window in the Court hall. He then took his own Webley revolver and loaded it with one of blank cartridges seized at the search of the 1st accused's house, and fired keeping the muzzle at 2" from the card-board and aiming the muzzle at right angles to the card-board. He found the wad, a card-board one, at a distance of 4 feet behind the card-board. From the nature of the tears of the card-board pieces in the direct shot (M.O.No.22) it will be clear that the wad could not have passed through the card-board pieces and out of them. On account of the force of the impact, the whole card-board appears to have turned a little and the wad glanced off the surface and fell behind. The area of dispersion showing a charred effect was about 3 1/2" in diameter on M.O.No.22. A similar demonstration was made with the card-board of the same size with a blank cartridge and at the same range, but the muzzle making an angle this time with the card-board. There was a visible flame jutting out of the muzzle to a length of about 6". A portion of the card-board got burnt as a result, and also a piece (the first piece in M.O.No. 23) got turn off on account of the impact. Here again, an examination of the six pieces of card-board making together M.O.No.23, showed that the wad could not have passed through the pieces and out of them. The angular shot was fired keeping the muzzle at the same angle at which, according to the witness, injury No. 1 could have been caused. The charred portion in this case covered an area of 3" x 4 1/2". The experiments show that the outer surface of the object fired at with a blank cartridge at close range with a revolver, might possibly be covered with charring and unburnt gun-powder, and also that the wad might not necessarily be found to have lodged in the object or made an exit through it. The witness was of opinion that if there was hair intervening, there might not be unburnt gun-powder in the injury caused with a blank cartridge fired at close range. As regards the nature of the injury no. 1 caused to Josephine, he thought that it could not have been caused if the revolver was held at right angles to the side of the head. This opinion seems to square with the evidence of Josephine who said that though the 1st accused held her head, she was on account of fear struggling and was shaking the head. There was therefore every possibility of the wound having been inflicted by holding the revolver at an angle. Indeed, it is difficult to work a perfect perpendicular shot unless the object aimed at is absolutely stationary, an assumption which cannot be made when we are dealing with a human being in a state of great alarm, confusion and nervous tension. So much for the evidence about the use of the revolver.

23. I must next refer to the evidence adduced for the prosecution relating to the identification of the accused. The investigating Sub-Inspector, P.W.21, gave evidence about the attempts made to identify the accused by the witnesses for the prosecution. Soon after the 1st accused was arrested on the 25th of March, the girl Christina was taken to the Police Station and was asked to identify him when he stood along with 9 others in the Station. She did not identify him and a yadast Exhibit XVII was prepared at the time, recording this. Christina says that it was night at the time and she was not able to point him out. On the 31st of March, however, there was a regular parade in the Sub-Jail for identifying the 1st accused. The yadast prepared at the time, Exhibit T, shows the precautions taken in connection with the parade. The Jailor has been examined as P.W.18 and he said that the parade was held properly and there was no opportunity for any mistake or dishonesty. There Christina identified the 1st accused. Thamani Sapalya said that the person whom he saw running away from the scene of offence looked like the 1st accused and pointed him out. Thimma Shetty, P.W.3, also identified him. On the 7th of April, another parade was held for the identification of the 1st accused, the 3rd accused and the 4th accused. The 3rd accused had been arrested on the 30th of March while the 4th accused was arrested on the 4th of April. There were 16 persons brought for this parade and made to stand in a line. Isadore Souza identified accused 1, 3 and 4. After a time the 1st accused was sent away from the line. Then Thamani Sapalya was asked to identify the 3rd and the 4th accused. He pointed out one Iddine Beary first and then identified the 3rd accused. Josephine pointed out one Hassane Beary first as the 3rd accused, but later showed the 3rd accused. She identified the 4th accused. Christina identified accused 3 and 4 as also Thimma Shetty. There was another parade on the 18th of April, but it was of no use. As regards the identification of accused 3 and 4 on the 7th of April (Exhibit T-1) Isadore Souza and Thamani Sapalya said in their evidence that the accused were pointed out to them by the police previously, and so, they were able to identify. There seems to be some ground for thinking that the witnesses had an opportunity of seeing the accused prior to this parade, since even Josephine who, if the prosecution case is true, had the largest opportunity to see the accused at close quarters, was unable to identify the 3rd accused properly. As I said, she pointed out another person and later showed the 3rd accused. I must also mention that on the 19th of 1941 there was a parade (Exhibit GG) held for the identification of the 2nd accused who had surrendered himself on the 16th of April. Isadore, Thamani Sapalya, Christina and Thimma Shetty identified him. The 5th accused was produced on the 21st day of July when a parade was held on the 12th of August for his identification. Josephine and Christina identified him. Isadore and Thamani Sapalya and Thimma Shetty could not identify. It was argued for the defence that this parade could have been held much earlier, and that Josephine and Christine had occasion to see the 5th accused in the interval. There seems to be some legitimate ground for this, as none of the other witnesses present at the time of the occurrence was able to identify him. To sum up this evidence, I am of opinion that there was no proper identification by the prosecution witnesses of accused 3, 4 and 5. So far as accused 1 and 2 are concerned,

there is ample evidence of identification not merely by Josephine, but by the other witnesses to the occurrence.

24. Certain other witnesses were called for the prosecution, but I do not think it is necessary to refer to them in detail here, though I may have to refer to some of them when considering the evidence adduced for the defence. Before considering the defence evidence, I will have to refer to the statements of the accused. The 1st accused stated before the Magistrate that Josephine agreed to receive Rs. 1650 in full settlement of the decree, and that she would come to take the amount from him by cheque at Udipi. He sent his brother the 2nd accused to Phalmar in connection with it. He says he deposited the money he had with him into the branch of Canara Bank at Udipi and arranged to obtain a loan from Ananthaya Hegde for the balance. Josephine's mother came to him subsequently and insisted upon the payment of cash at Phalmar and not at Udipi. The 1st accused did not agree to pay the amount at Phalmar on account of the influence wielded by the doctor under whom Josephine was working, and so, it was agreed that the amount should be paid at Gundy in Hejmady village. Accordingly he went to Gundy on the 9th of March to the shop of one Srinivas Shanbhogue. Srinivasa Shanbhogue did not come, and as it was getting late for Josephine to return to Phalmar, he got a scribe and two attestors with the help of Srinivas Shanbhogue's servant and got a receipt written. Rs. 1650 was paid and after Josephine executed the receipt, Srinivas Shanbhogue came and she admitted the receipt of the amount and her executing it. He also said that the case was concocted by Josephine with the help of influential friends, in order to blackmail him and that on the date of the occurrence he was in Udipi village. In this Court he added that his brother the 2nd accused was not present at the time of the receipt as he was unwell, that the receipt was not found at the search made in his house since it was left with the 2nd accused, and that he did not produce it earlier in the Munsif's Court as he was afraid the evidence might be tampered with. The 2nd accused denies that he went to the shop of Srinivasa Shanbhogue on the date of the receipt and says that he was not properly identified, and that he was at Udyavar on the date of the alleged occurrence. The 3rd accused said before the Magistrate that he was not identified properly by the prosecution witnesses, and that he had nothing to add in this Court. The 4th accused made a similar statement. The 5th accused said before the Magistrate that the witnesses saw him before identifying him. He added in this Court that he went to Bombay two or three years ago and was working as a fitter. The Bombay Police arrested him and sent him to Mangalore and he adds that he knows nothing about the offence.

25. It will be seen, therefore, that generally speaking every one of the accused pleads an alibi. The 1st accused in addition has led evidence to show that he paid Rs. 1650 in full settlement of the decree to Josephine on the 9th of March 1941 and obtained the receipt Exhibit VII, and that therefore there could have been no motive of any kind for him to confine her wrongfully, intimidate her or cause any injury to her in order to extort any thumb-impressions from her with a view to write up a receipt. If the receipt is proved to be genuine, there could be no

motive at all for the 1st accused acting as the prosecution says he did. The receipt mentions that Rs. 1650 was paid in full settlement towards a sum of Rs. 1859-5-2 due under the appellate decree in A. S. No. 298 of 1939, and that the balance was remitted. There is also a recital that Josephine would file a separate petition into Court for certifying satisfaction of the decree. There is a stamp affixed and over the stamp there is what purports to be the signature of Josephine Pinto. The receipt purports to be written by one H. Somappa and attested by V. Gopalakrishnaya and Rama Poojary. According to the defence, the receipt was written at the shop of one Srinivasa Shanbhogue at Hejmady. It is said 10 that even prior to the receipt, the 2nd accused had gone on the 5th of March and on the 6th of March to Phalmar to speak to Josephine about the decree. Josephine very frankly admits that the 2nd accused came to her house on the 5th, but she referred him to her superior Officer the doctor at the Phalmar Dispensary. It is also in the evidence that the 2nd accused went to the Dispensary on the 6th of March, but the doctor was just then going out on a visit, and so, he asked the 2nd accused to wait for his return. The doctor has said in his evidence that the 2nd accused was not present when he returned, and so, there was no conversation of any kind between the 2nd accused and either him or Josephine. 20

26. The defence have examined the scribe and the attestor Rama Poojary. The scribe (D.W.10) says that he went on the 9th of March 1941 to the shop of Srinivas Shanbhogue to buy jaggery and that the shop boy Nagesha requested him to write the receipt, and so, he wrote the receipt Exhibit VII. According to him Josephine and another woman had come for the purpose. There was also the 1st accused present. He prepared a draft of the receipt at first, read it over, and after it was approved, wrote Exhibit VII. The money was paid to Josephine and after he finished Exhibit VII, Srinivasa Shanbhogue came to the shop. After he came, the 1st accused gave the receipt to him and he read it 30 and said it was correct. Josephine had the money tied in a white towel and was holding it in her hand when she left the shop. The attestor Rama Poojary was also present when she left the shop. He could not tell why the receipt should be executed in Hejamady when neither of the parties belonged to that place.

27. The attestor Rama Poojary (D.W.9) lives at a distance of two or three furlongs away from the shop of Srinivas Shanbhogue. The shop boy called him when he was returning from a coffee hotel near the shop. He says he saw the payment of Rs. 1650 to Josephine and the execution by her of the receipt Exhibit VII. His evidence is, however, not quite 40 consistent with that of the scribe. It is curious he knows nothing at all about the preparation of a draft for the receipt when the scribe said that he did prepare one and that he kept it on the table and wrote the fair receipt Exhibit VII looking at the draft. Then again, Rama Poojary says that he left the shop before Josephine and the other woman who came with her left, and so, he did not know if she carried any money with her. But the evidence of the scribe is positive on the point that Rama Poojary was also present in the shop when Josephine left the shop with the money bundle in her hand. There are a few other discrepancies on minor

points to which it is unnecessary to refer. But there is a discrepancy on a material point, viz., whether Srinivas Shanbhogue saw the receipt. Though the scribe said that he did see and read and approve of it, Rama Poojary says that he did not, and that the receipt was not shown to Srinivasa Shanbhogue so long as he was there. Further, though Rama Poojary stated before the Magistrate (in Exhibit RR) that he did not know why or for what purpose the money was paid, he said in this Court that it was given for some decree. He is not a man of any status. Nor has the scribe any property in his name. There was another person
10 mentioned in the receipt as an attester, but he has not been examined.

28. The evidence of Srinivasa³ Shanbhogue is extremely surprising. Though the receipt was written at his shop, he was not present either when it was written or when the² money was paid, but turned up immediately after the receipt was completed, just in time to get an admission from Josephine that she received the sum and executed the receipt. When he came to the shop, the 1st accused is said to have told him that they came there to settle a decree claim, and that as he was not present he got the receipt written and attested with the help of the shop boy. He says that he knew P.W.1 before, but there is really no corroboration
20 of it and Josephine denied it. He certainly had no dealings with the 1st accused, and it is somewhat curious that his shop should have been chosen even if the parties thought that Hejamady was neutral ground and so, the fittest place for taking the receipt. If the parties went all the way to his shop to get the receipt executed, one would ordinarily expect them to have waited until he came or at least send for him. His conduct after he came to the shop is equally strange. Though the scribe said that Srinivasa Shanbhogue took the receipt in his hands, read it and approved it, he says, that he did not see the receipt at all. Further, he did not even notice if Josephine was carrying any money bundle with her when she left the place.
30 Srinivasa Shanbhogue no doubt appears to be a man of some property but he does not appear to be very well disposed towards the police since his removal from the Presidentship of the Vigilance Committee of Hejamady. I might also say that he said before the Magistrate (Exhibit PP) that the 1st accused did not ask him to attest the receipt after he came to his shop, and that as neither party requested him he did not do so. But in this Court, he says that he would have attested the receipt only if it had been executed before him. From the manner in which Srinivasa Shanbhogue gave his evidence, I am of opinion that he was not the sort to have much of a scruple to attest such a receipt
40 even after it was finished.

29. In addition to these witnesses, the defence have called two other persons who are said to have met Josephine and her woman companion on the evening of the 9th of March soon after they left Srinivas Shanbhogue's shop. One of them Subba Champa (D.W.7) lives at a distance of 3 furlongs from the shop. He says he was going to the Post Office which is next to the shop, to post a letter, and that on the way he met Josephine at about 5 P.M., and upon asking her why she came, she said that her decree amount⁴ was settled that day, and that she was going back to Phalmar. This evidence is wholly unconvincing. Subba

Champa admittedly had never spoken to Josephine before. He says he saw her before, though why and when he could have seen her, is not made clear. In any case, he could not possibly have asked a young stranger woman with whom he had never spoken before why she came to Hejamady, nor is it at all likely that she would have been anxious to narrate to him all that happened about the settlement of the decree and the payment of money that afternoon. The evidence is too artificial to be believed. He belongs to the Fishermen caste, and has admittedly known the 2nd accused who is the brother of the 1st accused as the Headmaster of a school of the Fishermen community in Hejamady. 10

30. The other witness, D.W.8, is not a resident of Hejamady at all. But he says that he came to his wife's house in Hejamady which is situate at about 2 furlongs from the shop of Srinivasa Shanbhogue. He says that he met P.W.1 at about 4-30 P.M., at about a furlong's distance from his shop and she told him about the payment of the money and the passing of the receipt. Here again, he admitted that Josephine was not his friend, and that at any rate not such a friend or acquaintance as he could talk to on the road. He says he spoke to her at the Phalmar Hospital some time before. I do not think it at all likely that such a conversation would have taken place, even if, as a matter of fact, the receipt was executed on the date it bears. The witness did not impress me as a person having any regard for truth. So much for the evidence relating to the execution of the receipt. 20

31. I will next deal with a few probabilities throwing light on the question of its genuineness. In the first place, it seems strange that the receipt should not have been written either at Udipi where the 1st accused resided, or at Phalmar where Josephine was employed. There is nothing to corroborate the statement of the 1st accused that Josephine and her mother insisted upon the payment of cash at Phalmar, and that they later agreed to go to Hejamady and take the money there passing a receipt therefor. The only excuse that could plausibly have been put forward for getting the receipt written in Hejamady would have been the help that the 2nd accused who was a teacher in Hejamady would be able to give to the 1st accused in getting the receipt drawn up and executed. Curiously enough, the 1st accused says in his statement in this Court, for the 1st time that the 2nd accused was not present at the time of Exhibit VII, as he was ill. There is no proof of his illness and it appears to me to be wholly improbable that he would not have been present and taken an active part if the receipt was written in Hejamady and the money was paid there. Secondly, if the receipt was genuine, one would expect Josephine to have taken with her not her old mother, but some male to assist her. It is difficult to suppose that the compromise was settled with Josephine and that she would have agreed to go and take the sum of Rs. 1650 in a strange place like Hejamady without any one's assistance. Thirdly, it does not seem at all probable that she would have carried so much money on her person at about 5-30 or 6 P.M., on a foot-path of about 4 miles distance from Hejamady. I have already referred to the positive evidence and the part that Srinivasa Shanbhogue took in respect of it. Fourthly, it is also somewhat strange that the attestation of Josephine's mother was not taken to the receipt if it was really 40 50

genuine. She was the only person present with her according to the defence at that time, and when such a large sum was being handed to her, one would have taken the elementary precaution of having at least her mother's attestation. There is no explanation why this could not have been done.

32. Fifthly, there is another matter improbabilizing the settlement of the decree on the terms mentioned in Exhibit VII, and so casting a doubt upon the genuineness of the receipt. The appellate Court besides passing a decree in favour of Josephine for the amount of Rs. 1503 claimed by her, awarded her Rs. 190-8-0 for costs of suit, and Rs. 117-6-0 the costs of appeal, together with interest on the aggregate at 6 per cent per annum from the date of the appellate decree. These amounts exclusive of interest come to Rs. 1810-14-0. There is a direction in the decree that the 1st accused should pay the Government Rs. 314-14-0 for the court-fee on the plaint and the appeal. There is also a clause giving the Government a first charge for this court-fee on any amount payable to Josephine under the decree. The petition for entering up satisfaction of the decree filed by the 1st accused (Exhibit P) shows that he had not paid anything more than Rs. 50 to the Government for the court-fee. 20 Considering the terms of the decree, it appears to me to be wholly unlikely that Josephine or her advisors would have been content to take Rs. 1650 in full settlement without making any provision for the court-fee payable to the Government, especially in view of the direction about the charge on the amount decreed in favour of Josephine. This again shows that the story of the receipt cannot be true.

33. Sixthly I must refer to one other matter which would be of use in coming to a conclusion on the point of genuineness of the receipt. I refer to the extraordinary delay in filing the receipt into the Munsif's Court in connection with the petition for entering up full satisfaction. 30 The petition, Exhibit P was filed into Court on the 7th of June 1941. Josephine filed a counter on the 18th July 1941 repudiating the allegations made in the petition. In spite of the counter and in spite of the specific order of Court, the receipt was filed into the Munsif's Court only on the 26th July 1941. It is common knowledge that in cases of this kind, the receipt is filed along with the petition for satisfaction. The explanation offered for the delay is that the witnesses connected with the receipt would have been tampered with, if it had been filed earlier. I am, however, unable to see any force in this. If the receipt is genuine, Josephine would certainly have known who wrote and attested 40 it; and if she or her advisors had any idea of interfering with the witnesses, they could certainly have done so without a need to refer to the receipt. I think, therefore, that the omission to file the receipt until nearly a month and 20 days after the petition, goes a long way against its genuineness.

34. It was, however, argued for the accused that the evidence of one Mahajan, given after a comparison of the signatures of Josephine supports the defence case, and that Josephine must have signed the receipt. It was, however, not possible to secure the attendance of this witness in this Court, and so, his deposition before the Magistrate is

marked as Exhibit XIX. It has been elicited in the cross-examination of the witness that there are several points on which the signature in Exhibit VII differs from the other admitted signatures of Josephine. For instance, the letter 'J' in Exhibit VII has three loops, while the others as seen from Exhibit XIX(a) contain only two. The two o's in Exhibit VII slant a little to the right, while the o's in the signatures 2 to 6 in Exhibit XIX(a) are nearly vertical. Further, the loop at the top of 's' is blind in the receipt, while it is open in Exhibit XIX(a) 2 to 5. In signature Exhibit XIX(a) 6 no loop appears at all for 's'. There is also a difference in the size of the letter 'e' in the various signatures. Similarly, the letter 'p' in the receipt has an open loop at the bottom, while every one of the other admitted signatures in Exhibit XIX(a) 2 to 6 do not show such loop. Similarly, the difference in the slant of the entire signature in the receipt as compared to the others, is quite striking. While there is a pronounced slant to the right in the receipt, the other signatures are more or less upright, though certain of the letters show a slant. It will be seen, therefore, that there are differences in the size, slant, spacing and the connection of the letters as also their formation. Some of these may be due to fortuitous or accidental reasons, but the differences are too numerous and clear for anyone to say that the signature in the receipt must have been written by Josephine Pinto because it resembles the other admitted signatures. In my opinion, it does not and I do not think the evidence of the Handwriting Expert should be taken to be infallible, especially when the positive evidence adduced about the receipt points against its genuineness.

35. I must refer to one other argument advanced for the defence about the handwriting. The argument is that after the date of the receipt Exhibit VII, Josephine deliberately changed the style of her signature so far as the letter 'P' in 'Pinto' is concerned, so that she might set up the contention that Exhibit VII is not genuine. In Exhibit B, the plaint in O. S. No. 147 of 1936 of the Mangalore District Munsif's Court, dated 3rd January 1936, in Exhibit III dated 18th April 1936, the Vakalat of Josephine in said O. S. 147 of 1936, in Exhibit I dated 30-11-1937 the deposition in the said suit, in Exhibit C dated 27th January 1941, in Exhibit D dated 11th February 1941, in Exhibit E dated 24th March 1941, in Exhibit F dated 23rd March 1941, Josephine has put her signatures writing 'Pinto' in the script style for the letter 'P'. In Exhibit IV dated 21st July 1941, Exhibit V of the same date and in Exhibit II dated 12th August 1941 written to dictation in Court, she used the print style for the letter 'P'. I am unable to see any deliberate plan or point in this change of style. If this argument was sound, one would have expected Josephine to sign the execution petition for arrest, Exhibit E in the new style of 'P' since it was signed on the 24th of March 1941, i. e, 15 days after the date of the alleged receipt Exhibit VII. Even in the statement she gave to the Patel, Exhibit F, on the 23rd March she signed 'P' in the old style. "If she had any deliberate design of changing her signature with the definite intention of putting forward a plea that a genuine receipt was a forged one, surely, she would have taken the earliest opportunity of doing so. Considering that Josephine had studied only up to the III Form, and that she could not be said to

have had a settled signature, I do not think any argument could be based on the mere change of one letter in her signature.

36. I should, however, refer to one other matter relied upon for the defence. During the course of the examination of the Excise Inspector (P.W.19) he stated that when he was inspecting the range of the 1st accused from the 15th of March to the 23rd of March-1941, he happened to ask him if he settled the decree debt that he was owing. He says that the 1st accused told him during the inspection week that he settled the matter. After looking into his diary, he said that was on the 19th
10 of March. It is not suggested that he made any entry in his diary about it. Even assuming for a moment that the 1st accused told him that he had settled the matter, I do not see how in the face of other evidence pointing unmistakably against the genuineness of the receipt Exhibit VII, the casual statement of the Inspector based merely on memory could be of any help.

37. In this connection, I should refer to the evidence of P.W.13 and P.W.14 who speak about the execution of a receipt on the 9th of March by someone calling herself Josephine Pinto in Hejmadi but not at the shop of Srinivasa Shanbhogue, but at the Girls' School of the District
20 Board in Hejamadi. P.W.13 is a teacher in a District Board Boys' School of Hejamadi and he knew the 2nd accused who is the Headmaster of the Fishermen School. According to him the 2nd accused met him on the 9th of March 1941 and asked him to go to the school. That was at about 2-30 in the afternoon. He found the 1st accused in the school and the 2nd accused came later with P.W.14 Somaya Marakala. A few minutes later, two women, one a young woman of 25 years of age, short, thick-set and of a dark complexion, came there along with an older woman of about 50 years of age. The younger woman wrote with a fountain pen on a paper handed to her by the 1st accused. It purported to be a receipt for Rs. 1650
30 and he attested it. Some currency notes were handed by the 1st accused to the younger woman. The evidence of Somaya Marakala (P.W.14) corroborates P.W.13. He too says that the 2nd accused took him to the school and that he knew him as he was himself a fisherman and the 2nd accused was the Headmaster of the Fishermen's school. Both P.W.s 13 and 14 saw Josephine in this Court and said that she was not the young woman who wrote and signed the receipt which they attested on the 9th of March 1941. Even before this, the Sub-Inspector of Police P.W.21 took P.W.13 and P.W.14 on the 2nd of April 1941 to the Moolky Hospital where Josephine was then an in-patient. They saw her and said then alone that
40 she was not the person who signed the receipt before them. The Case Diary of the Sub-Inspector for 2nd April supports this. It will be seen from this evidence that an attempt was made to take another receipt with some air of publicity on the 9th of March 1941 itself. But I do not think that Josephine had anything to do with it. Even if this evidence is excluded, there is ample material upon which one can come to the conclusion that Exhibit VII could not have been true.

38. I must also refer to one other matter as to whether the 1st accused had the necessary means to find a sum of Rs. 1650 to pay under Exhibit VII on the 9th of March. He examined the Head-clerk of the
50 branch of the Canara Bank at Udipi, to show that the 1st accused deposited

a sum of Rs. 825 into the Canara Bank on the 3rd of March 1941. Rs. 725 out of it was withdrawn on the 8th of March. There is, however, nothing to show how this sum of Rs. 825 was obtained by the 1st accused on the 3rd of March. There is no proof that he had any account with the Canara Bank previously either at Udipi or elsewhere. As regards the balance, a sum of Rs. 800 is said to have been obtained by executing a promissory note, Exhibit XXIII, to Ananthaya Hegde. A letter dated 5th of March 1941, evidenced by Exhibit XXIV, has been filed. In it the 1st accused requests Ananthaya Hegde to take the promissory note and send Rs. 800 with his brother as he wanted to settle the decree amount on the 9th of March. As Ananthaya Hegde is said to have had some mental touch since his examination before the Magistrate, his deposition (Exhibit XXII) was marked. He said that one or two months prior to Exhibit XXIII, the 1st accused had approached him for a loan of Rs. 1000 representing that he intended to pay a decree, and that he then told him that he had only Rs. 800 and not more. He says that the money did not belong to him, but to this mother-in-law, and that it was kept uninvested in the house for over a year. It is, in my opinion, very hard to believe evidence of this kind. There is no account or other document to show that Ananthaya Hegde had the necessary money to advance. I am therefore not satisfied that the 1st accused had the necessary means to discharge the decree on the 9th of March 1941 by payment of Rs. 1650 as mentioned in the receipt Exhibit VII. Taking, therefore, the positive evidence and the probabilities and the other circumstances relating to the receipt, I am of opinion that Josephine did not sign it and that she did not receive the sum mentioned therein in satisfaction of the decree.

39. I will next refer to the evidence relating to the alibi of the 1st accused. D.W.3 is a retired vaccinator living in Kinnimoolky in Udipi. He said that on Sunday the 23rd of March 1941 he attended the morning service at Udyavar Church at 6-30 A.M., and that he met accused 1 and 2 at the Church, that the service was over at 7-30 A.M., and he saw the 1st accused while returning from service. He says that he spoke to the 1st accused, and that he remembered about this, as he heard about the arrest of the 1st accused on the 25th of March. If this evidence is true and if the witness saw the 1st accused at about 7-30 A.M., near the Church at Udyavar, it would certainly have been impossible for the 1st accused to have been present at Phalmar at the scene of occurrence since it is 19 miles away from Udyavar. But I am unable to accept his evidence for the reason that in the ordinary course of things, it would not have been possible for him to know or remember who attended the Church on any particular day. He ventured another statement before the Magistrate, viz., that he saw the 1st accused on the road in Kinnimoolky on the Sunday after the 23rd of March. On the 30th of March, there is evidence to show that the 1st accused was in the Sub-Jail and the witness could certainly not have seen him at Kinnimoolky. Apart from this, he is a relation of accused 1 and 2 and I am unable to accept his evidence.

40. D.W.4 is a resident of Udyavar. He says that he attended the morning service at the Udyavar Church on the 23rd of March and saw the accused 1 and 2 sitting in the Church a few yards away from him. Admittedly he did not speak to either the 1st or the 2nd accused

that day at the Church. The 1st and the 2nd accused belong to the Udiipi Church and that Church was certainly nearer than the Udyavar Church for the 1st accused. The witness admits that he has known accused 1 and 2 from their childhood and that, perhaps, explains his presence in the witness-box to help the 1st accused.

41. There is next the evidence of D.W.11, a neighbour of the 1st accused in Udiipi. He is a weaver working a loom and he usually does his work inside his house. He says that he saw the 1st accused going out of the house to Church on the 23rd of March at 6 or 6-30 A.M., and
10 returning by 7 or 7-30 A.M. He says that he saw him at 8-30 A.M., when he left for his church and also when he returned at 10 or 10-30 A.M. There is apparently no reason why a weaver instead of looking after his own loom inside the house, should have noticed the movements of the 1st accused in such great particularity. He is a man of no property. I cannot accept his evidence as satisfactory and probable.

42. There is, in addition, the evidence of D.W.12 a peon in the Excise Sub-Inspector's Office. He said that when he met the 1st accused at 7-30 A.M., at his house in Udiipi on the 23rd of March, he was not at home, but returned within a few minutes of his going. Then the
20 witness went to his Church and came back at about 9-30 A.M. He says he and the 1st accused worked together till about 12 noon preparing certain figures for the statement Exhibit XXI which had to be submitted to the Inspector of Excise in connection with the inspection of the range. Exhibit XXI was not filed in the Magistrate's Court. The inspection of the range office started on the 15th and it is hardly likely that the preparation of a statement of that kind would have been postponed to the fag end of the inspection. It was by no means difficult to prepare the statement from the various registers in the office, though it might have taken some time. It is impossible for me to believe a man with
30 the status of D.W.12 to show that the 1st accused was at his house from 7-30 to 12 noon working at the figures for preparing a statement to be submitted to the Inspector. I am not, on this evidence, prepared to believe the alibi set up by the 1st accused.

43. As regards the 2nd accused, I have already referred to the evidence of D.Ws. 3 and 4 while dealing with the plea of alibi of the 1st accused. In addition, D.W.2 was examined. He is a resident of Udyavar and lives at half a mile from the house of accused 1 and 2. According to him, they have to pass by his house to go to the Udyavar Church and he stated that on the 23rd of March last year he saw the 2nd
40 accused going to the Church at about 6-30 A.M. The witness was then supervising the watering in his garden, and met the 2nd accused and asked him where he was going. The 2nd accused told him that he was going to the Church. In cross-examination he said that he has been seeing the 2nd accused going to the Church on every Sunday from his childhood, and he does not say how he happens to remember this particular event. When he was asked why he put the question to the 2nd accused on that day, he said he did not know it was a Sunday. The witness is considerably indebted and has apparently come to help the 2nd accused as he knew him from his childhood. I must also mention that

the evidence of this witness was that both accused 1 and 2 came cycling to the Church when he met them. This is inconsistent with what D.W.3 said viz., that the 1st accused alone rode a cycle, while the 2nd accused went walking. I am unable to believe that the 2nd accused was at Udyavar Church between 7 and 7-30 A.M., on the morning of the 23rd of March 1941.

44. I would refer in this connection to the evidence of Poova Poojary, P.W.11. He says that he lives in Udyavar and knew all the accused. The house of accused 1 and 2 is said to be a few yards from his house. The 3rd accused lives at a furlong from the house of accused 1 and 2. The 4th accused is stated to live at 1½ furlongs from the house of the 3rd accused. The 5th accused does not live in the village of Udyavar at all. His evidence is that on the Saturday before the arrest of the 1st accused, i.e., on the 22nd of March, he saw accused 1 and 2 in their house in the evening and also accused 3 and 4, and saw them all starting out together to go somewhere. He could not say where they went. That was at about lamp lighting time. I was not impressed with his evidence and I cannot believe that he really saw any of the accused on Saturday the 22nd of March. He does not also appear to be a man of any status. 10

45. The evidence of the Police Constable P.W.16 to the effect that he saw accused 1 and 2 in Tenka on the 23rd of March at 11 A.M., is not very convincing in the absence of any corroboration. Nor is the evidence of the boat man, P.W.12, any better. He said that he took in his boat some time ago four persons from Phalmar to Moolky. He says that among the persons he conveyed, there were accused 2, 3 and 4. The evidence is in my opinion too vague to be of any use, especially when a boat man carries several persons every day. Nor can much reliance be placed upon the identification he is said to have made of those accused. Exhibit T-1 shows that he identified accused 3 and 4 on the 7th of April 1941, but not the 1st accused. Exhibit GG says that he identified the 2nd accused. Considering the circumstances under which the identification parades were held, I do not think it will be safe to rely upon them. As I said, it is difficult to think a boat man would remember his passengers and be able to identify them weeks after the trip, especially when he did not know them before and when there was no particular reason to commit their description to memory. 20 30

46. The 4th accused has also led evidence of alibi. He called one Yellappa Shetty, D.W.5, to show that on the 23rd of March 1941, the 4th accused came to his house in Padu Tonse a village about 10 or 12 miles from the residence of the 4th accused in Udyavar, for thatching his house. It is said that the 4th accused's wife is a tenant of the witness and so he came on the Yugadi day to do this work free for his wife's landlord. The witness is a Bunt and he said curiously enough that the Bunts in this District observe both Chandramana and Souramana Yugadies. This, of course, cannot be true. It is well known that the Bunts observe only one of the Yugadies, and that is the Souramana. He appears to have been a member of the Vigilance Committee and was removed from it. It is not possible to act upon evidence of this kind to prove alibi. But the question whether the 4th accused participated in 40

the occurrence of the 23rd of March, and how far he was identified by the prosecution witnesses, is another matter.

47. Accused 3 and 5 did not lead any evidence.

48. Whatever may be the infirmities of the defence evidence, the case for the prosecution must be considered and dealt with on its own merits. The omission by some of the accused to call any evidence is a wholly irrelevant matter. Having considered the entire evidence, I have not the least hesitation in answering in the affirmative the first question with which I started, viz., whether there was any occurrence on the
10 23rd of March last year near the Karnire School, as stated by the prosecution.

49. A suggestion was made for, the accused that Josephine might have got the injuries self-inflicted with a view to foist a case upon the accused on account of inimical feelings between them. The positive evidence about the occurrence which I have discussed above in detail, and the report of the Patel within barely a couple of hours of the occurrence, and the evidence of the doctor of the Phalmar Dispensary about his seeing the injuries on the person of Josephine at about 12 noon the same day, and the fact that the Sub-Inspector of Moolky and the Medical Officer of
20 the Moolky Hospital saw her the same evening between 5 and 6—all go to show in my opinion that there was an occurrence of the kind mentioned for the prosecution, and that the injuries could certainly not have been self-inflicted.

50. The next question to be answered is whether the prosecution has brought home guilt to all or any of the accused in respect of the charges made against them. It will be convenient to dispose of the charges against accused 3, 4 and 5 at first. They are charged under Section 147 I.P.C., and also under Section 347 read with Section 34 I.P.C., along with accused 1 and 2. There is no doubt evidence to show that
30 there were five persons present at the occurrence, and that their common object was to obtain thumb-impressions of Josephine to pieces of paper and post cards, and that they formed an unlawful assembly. There is also evidence to show that those five persons held Josephine firmly under the jack tree, surrounded her and extorted thumb-impressions from her which could be used as valuable securities. But the question is whether the prosecution has shown beyond any reasonable doubt that accused 3, 4 and 5 were among the five persons. The prosecution do not allege that either Josephine or any of the prosecution witnesses called to prove the occurrence had known accused 3, 4 and 5 previously. I have shown how
40 unsatisfactory the evidence as regards the identification of these accused is. If the accused had been offered for identification soon after arrest and if the usual precautions had been taken to prevent the witnesses from seeing them before the identification, some reliance could have been placed upon the identification evidence. From the statement of Josephine to the Patel, Exhibit F, it would have been impossible for anyone to identify accused 3, 4 and 5. She only said that they were all under 30 years of age, that one of them was a Hindoo and the other two were Christians. Though the 3rd accused was arrested on the 30th of March, his identification parade did not come off till the 7th of April. The

parade relating to the 4th accused was also held on the 7th of April though he was arrested on the 4th of April. It is admitted that after arrest accused 3 and 4 were kept in the Moolky Station lock up for the night and were later brought in a bus to Mangalore for the purpose of identification. There was plenty of opportunity for the witnesses to see accused 3 and 4 before the parade.

51. As regards the 5th accused, he was brought from Bombay and was produced in Court on the 21st July; but the parade was held only on the 12th of August as Exhibit HH shows. The witnesses were coming to Court in the meantime in connection with the case, and there was every opportunity for them to have seen the accused before the parade. The Sub-Inspector said in his evidence that the 5th accused was actually in Court on the 21st July, that the witnesses also had come, and that though the counsel for the accused suggested that an identification parade may be held at once, that was not done. In these circumstances, I cannot possibly say that the 5th accused was properly identified. 10

52. In view of the unsatisfactory character of the prosecution evidence about identification of accused 3, 4 and 5, I cannot believe that they were present at the occurrence near the Karnire School on the morning of the 23rd of March last year. It follows from it that they are not guilty of the offences under section 147 and section 347 read with Section 34 of the Indian Penal Code. 20

53. Next as regards the 1st and the 2nd accused, it must be said that Christina did not identify the 1st accused on the 25th evening at the Police Station, but she identified him subsequently. There is nothing to show that there was anything questionable or suspicious about the later identification. As regards the 2nd accused, he was not arrested by the police, but he surrendered himself to Court on the 16th of April 1941 and applied for bail. The Court passed an order adjourning the application for bail (Exhibit XVI) to the 19th of April on the ground that the Police desired an identification parade to be held on the 19th of April. It was not held on the morning of the 19th, but in the Court room itself. Though it cannot be said that the parade was held in very proper circumstances, it appears to me the question of identification is not very material as regards accused 1 and 2. It must be remembered that Josephine knew both accused 1 and 2. Apart from the fact that the 2nd accused is the elder brother of the 1st accused, she must have seen the 2nd accused on the 5th of March 1942 at her house in Phalmar. That is admitted for the defence and is not denied for the prosecution. The identification evidence is also not of very great importance so far as accused 1 and 2 are concerned for the reason that within two hours of the occurrence Josephine's statement to the Patel was prepared and the names of accused 1 and 2 are specifically given therein. Though there was some delay in despatching the statement to the Police Station, there can be no doubt at all that it reached the Police Station the same evening at about 5-30 P.M. I have also referred to the evidence of the Phalmar doctor who was told about the occurrence and the participation of accused 1 and 2 therein, at 12 noon the same day. There is therefore ample evidence apart from the identification evidence showing that 30 40

accused 1 and 2 were present at the occurrence on the 23rd of March near the Karnire School and took part in it. It is unnecessary to recapitulate the other prosecution evidence already dealt with in detail relating to the incident itself and the circumstances forming the sequel to it. I have referred to the evidence of the actual witnesses to the occurrence and the evidence of persons who saw Josephine soon after the incident. I have also referred to the Medical evidence of the Moolky doctor and shown how his opinion as to the manner in which the injury could have been caused is amply corroborated by the Fire Arms Expert. There cannot also be any doubt about the motive for accused 1 and 2 to commit the offences with which they are charged. The 1st accused was apparently anxious to secure Josephine's signatures or thumb-impressions to certain papers intended to be used in connection with the discharge of the decree which he could not otherwise pay. The 2nd accused being the brother of the 1st accused was actuated by the same motive and by the natural instinct to help his brother. To one who does not know South Kanara, it may seem strange that thumb-impressions should have been taken from a literate person; but it is common knowledge that in this District thumb-impressions of literate persons are taken along with signatures even on promissory notes.

54. As regards the charge under Section 147, I.P.C., accused 1 and 2 cannot be held to be guilty since accused 3 to 5 are not held to be guilty of the offence. Nor can the 1st accused be said to be guilty of the offence under Section 148, I.P.C., since one essential condition that he must be a member of an unlawful assembly is not fulfilled, apart from his committing the offence with a deadly weapon. I find that the 1st accused is not guilty under Section 148 I.P.C. As regards section 347 read with Section 34, I.P.C., I have no hesitation in saying upon the evidence adduced that the 1st accused and the 2nd accused and certain others who are not before the Court wrongfully confined Josephine with the purpose of extorting thumb-impressions from her on pieces of papers and post cards for use as valuable securities. I have already dealt with the motive for the offence and it is unnecessary to refer again to the evidence showing how Josephine was held by accused 1 and 2 under the jack tree and how her thumb-impressions were taken against her will. The 1st accused is also charged under Section 324 I.P.C., with the offence of voluntarily causing hurt to Josephine by shooting at her head with a revolver having a blank cartridge. The evidence relating to this matter has already been considered and there can be no doubt that the 1st accused shot at Josephine with a revolver having a blank cartridge at a very close range and so caused injuries which were spoken to by various witnesses including the Medical Officers. I find that the 1st accused is guilty of the offence under Section 324 I.P.C. He was also charged with the offence under Section 506 I.P.C., i.e, criminal intimidation by threatening Josephine to kill her with intent to cause alarm to her or to compel her to give thumb-impressions to pieces of papers and post cards. I have dealt with the evidence of the threat made by the 1st accused which must certainly have caused her alarm, and of his compelling her against her will to affix thumb-impressions to papers and post cards. Since she was held by a number of persons including accused 1 and 2, and since

the 1st accused threatened to kill her so that his object in securing the thumb-impressions could be accomplished, there can be no doubt at all that he is guilty of the offence under Section 506 I.P.C.

55. The 2nd accused was charged also with an offence under Section 323 I.P.C., that is, voluntarily causing hurt to Josephine by dealing fist blows to her. The evidence of Josephine and Christina relating to this matter has already been considered. Their evidence was also corroborated by that of the Medical Officer of Moolky who stated in his medical certificate Exhibit Q that Josephine complained to him the same evening at 5-45 P.M., that she was suffering from pain on account of fist blows. I find that the 2nd accused is guilty of this offence. Next the 2nd accused is also charged with the offence of criminal intimidation by threatening Josephine to kill her, under Section 506, I.P.C. The 2nd accused, in my opinion took an active part along with the 1st accused in connection with the occurrence and particularly in threatening Josephine and causing alarm. There is ample prosecution evidence in support of it to which I have already referred. I find that he is guilty of the offence. 10

56. To sum up, I find that the 1st accused is guilty of the offence under Section 347 read with Section 34 I.P.C., and sentence him to one year's rigorous imprisonment. I find that 1st accused is guilty under Section 324 I.P.C., and sentence him to one year's rigorous imprisonment. I find that the 1st accused is also guilty of the offence under Section 506 I.P.C., and sentence him to one year's rigorous imprisonment. The three sentences will run concurrently. 20

I find the 2nd accused guilty under Section 347 I.P.C., read with Section 34 I.P.C., and sentence him to one year's rigorous imprisonment. I find the 2nd accused guilty under Section 323, I.P.C., and sentence him to one year's rigorous imprisonment. I find he is also guilty under Section 506 I.P.C., and sentence him to one year's rigorous imprisonment. These three sentences will run concurrently. A 30

Accused 1 and 2 are acquitted of the other offences. Accused 1 and 2 will be classed as B class Prisoners.

I find that accused 3 to 5 are not guilty of the offences under Section 147 I.P.C., or under Section 347 read with Section 34 I.P.C. They are therefore acquitted and ordered to be set at liberty.

Dictated to Shorthand-writer, and pronounced in open Court this the 4th day of July 1942.

(Sd.) T. D. RAMAIYA,
Assistant Sessions Judge. 40

N. B.—Accused 1 and 2 will be confined at the Central Jail, Cannanore.

APPENDIX OF EVIDENCE.

The following witnesses were examined:—

FOR PROSECUTION.

- | | |
|--------------------|------------------------|
| 1. Josephine Pinto | 2. Christina D'Mello |
| 3. Thimma Shetty | 4. Raju Shetty |
| 5. Subbayya | 6. Sri N. Krishna Bhat |

7. Sri Krishna Menon, D.M.O.
8. Sri K. Laxminarayana Rao
9. Sri U. S. Nayak (Moolky Doctor)
10. Sri T. N. Kumaran Nambiar (Phalmar Doctor)
11. Poova Pujary
12. Mundappa Sapalya
13. Kukra Pujary
14. Sannaya Marakala
15. Sri U. Janardhana (Tahsildar)
16. Ramakrishna (Police Constable)
17. Ramakrishna Shetty
18. Sri C. V. Sivaraman (Jailor)
19. Sri P. K. Madhava Menon (Excise Inspector)
20. Sri U. Ramappa (Magisterial Clerk)
- 10 21. Sri M. S. Bhandary (Sub-Inspector of Police)

FOR DEFENCE.

1. K. Pundalika Kini
2. Ebrahim Saheb
3. Salvedere Rego
4. Pedru Fernandez
5. Yellappa Shetty
6. Shrinivas Shanbhag
7. Subba Champa
8. A. Rukku Shetty
9. Rama Pujary
10. Somappa Pujary
11. Elizar Salins
12. C. Machado (Excise Peon)

COURT WITNESSES.

1. Isadore Souza
- 20 2. Sri T. V. T. Chary (Fire Arms Expert)

The following Exhibits were marked:—

FOR PROSECUTION.

- | | | |
|---------|------------|---|
| A | 3-12-1940 | Original decree in A.S. No. 298 of 1939 on the file of the Sub-Court, S. Kanara. |
| B | 3- 1-1936 | Plaint in O.S. No. 147 of 1936 on the file of the District Munsif's Court, Mangalore. |
| C | 27- 1-1941 | Petition R.E.A. No. 115 of 1941 on the file of the District Munsif's Court, Mangalore, for transfer of decree to District Munsif's Court Udupi. |
| 30 D | 11- 2-1941 | Petition R.E.P. No. 144 of 1941 by P.W.1 filed for attachment of defendant's moveables, on the file of the Udupi District Munsif's Court. |
| D(1) | 11- 3-1941 | Orders passed on do |
| E | 24- 3-1941 | Petition R.E.P.No. 280 of 1941 for arrest of the 1st accused filed by P.W.1 in the District Munsif's Court, Udupi. |
| F | 23- 3-1941 | Statement of P.W.1 recorded by the Potal of Karnire village and sent to the Station House Officer, Moolky. |
| 40 F(1) | Do | Copy of do sent to the Stationary Sub Magistrate, Mangalore. |
| G | 24- 3-1941 | Yadast prepared by the Sub-Inspector of Police regarding the ink smears on the thumb of P.W.1. |
| H | 14- 8-1940 | Portion marked in the deposition of P.W.3 in the committing Court. |
| J | 20- 4-1941 | Statement made by C.W.1 Isadore Souza before the Tahsildar-Magistrate, under Sec. 164 Cr.P.C. |
| J(1) | Do | Portion marked in do. |
| J(2) | Do | Portion marked in do. |

K	13- 8-1941	Portion marked in the deposition of C.W.1 Isadore Souza in the lower Court.	
L	23- 3-1941	Report sent by the Potail of Karnire village to the Station House Officer, Moolky.	
L(1)	Do	Copy of do sent to the Stationary Sub-Magistrate, Mangalore.	
M	23- 3-1941	Yadast prepared by the Sub-Inspector, Moolky, regarding the scene of offence.	
N	22- 9-1938	Printed copy of judgment in O.S.No.147 of 1936 on the file of District Munsif's Court, Mangalore.	10
N(1)	3-12-1940	Printed copy of the judgment in A.S.No.298 of 1939 on the file of the Sub-Court, S. Kanara.	
P	7- 6-1941	R.E.A.No.518 of 1941 on the file of the District Munsif's Court, Mangalore, filed by the 1st accused for recording satisfaction of the decree.	
P1	18- 7-1941	Counter of P.W.1 filed in R.E.A.No.518 of 1941 aforesaid.	
Q	24- 3-1941	Wound certificate granted by the Medical Officer, Moolky Hospital.	
R	3-12-1940	Certified copy of decree in A.S.No.298 of 1939 on the file of the Sub-Court, S. Kanara.	20
S	20- 4-1941	Statement recorded by the Tahsildar-Magistrate, examining Thamani Sapalya under Sec. 164 Cr.P.C.	
T	31- 3-1941	Yadast for the identification parade held in the Sub-Jail, Mangalore, for the identification of the 1st accused.	
T(1)	7- 4-1941	Do of accused 1, 3 and 4.	
T(2)	8- 4-1941	Do of accused 1, 3 and 4.	
U	25- 3-1941	Diary of 1st accused sent to the Inspector of Excise at the time of handing over charge.	
U(1)	23- 3-1941	Entry in Exhibit U of 23rd March 1941.	30
U(2)	24- 3-1941	Do of 24th March 1941.	
U(3)	25- 3-1941	Do of 25th March 1941.	
W	28- 3-1941	Letter written by the Station House Officer, Moolky, to the Sub-Magistrate, Mangalore.	
Y	29- 3-1941	Letter by the Medical Officer, Moolky, to the Stationary Sub-Magistrate, Mangalore.	
Z	2- 4-1941	Office copy of the letter written by the Sub-Magistrate Mangalore to the Chemical Examiner.	
AA	26- 4-1941	Reply by the Chemical Examiner to do.	
BB	14- 8-1941	Deposition of Thamani Sapalya in the lower Court.	40
CC	23- 3-1941	Yadast prepared by the Sub-Inspector of Police regarding the seizure of M.O.No.1.	
DD	23- 3-1941	Yadast for seizure of M.O.Nos. 2, 3, 6 and 7.	
EE	24- 3-1941	Yadast for seizure of M.O.No.5.	
FF	25- 3-1941	Yadast for seizure of M.O.No.4, 15, 16, and Exhibit N.	
GG	19- 4-1941	Yadast for the identification of 2nd accused.	
HH	12- 8-1941	Yadast for the identification of 5th accused.	
JJ	13- 9-1941	Eye-sketch of the scene of offence prepared by the Sub-Inspector of police.	
KK	6- 1-1942	Statement of 1st accused in the lower Court.	50

LL		Statement of 2nd accused in the lower Court.
MM		Do 3rd accused do.
NN		Do 4th accused do.
OO		Do 5th accused do.
PP	12-11-1941	Portion marked in the deposition of D.W.6 in the lower Court
PP(1)	Do	Do do
QQ	14-10-1941	List of witnesses filed by the accused before the lower Court.
10 RR	12-11-1941	Portion marked in the deposition of D.W.9 in the lower Court.
SS	Do	Do of D.W.10 do
TT	26-10-1941	Medical Certificate granted to P.W.10 by the Medical Practitioner at Moolky.
UU	13-11-1941	Portion marked in the deposition of P.W.11 in the lower Court.

FOR DEFENCE.

I	30-11-1937	Deposition of P.W.1 in O.S. No. 147 of 1936 on the file of the District Munsif's Court, Mangalore.
20 I(a)	Do	Portion marked in . do on page 3.
II	12- 8-1941	Specimen handwriting of P.W.1 taken before the lower Court to the dictation of the defence counsel.
III	18- 4-1936	Vakalat of P.W.1 in O.S. No. 147 of 1936 on the file of the District Munsif's Court, Mangalore.
IV	21- 7-1941	Petition by P.W.1 in the lower Court under Section 526 of Cr.P.C.
V	21- 7-1941	Bond furnished by P.W.1 in connection with Exhibit IV
VI	12- 8-1941	Three specimen signatures of P.W.1 since the past one year.
30 VI(a)	Do	Do before the past one year.
VII	9- 3-1941	Receipt alleged to have been passed by P.W.1 in favour of the 1st accused.
VIII	13- 8-1941	Portion marked in the deposition of P.W.2 in the lower Court.
VIII(a)	Do	Do Do
IX	14- 8-1941	Portion marked in the deposition of P.W.3 Thimma Shetty in the lower Court.
IX(a)	do	} Portions marked in do
IX(b)	do	
40 IX(c)	do	
IX(d)	do	
IX(e)	do	
X	20- 4-1941	Statement made by P.W.3 before the Tahsildar Magistrate.
XI	18- 7-1941	Copy of Exhibit P1 given to the accused's Vakil in the Civil Court.
XII	13- 9-1941	Portion marked in the deposition of P.W.10 in the lower Court.
XIII	14- 8-1941	Portion marked in the deposition of P.W.14 in the lower Court.

XIV	16- 3-1941	Diary of the 1st accused for the week ending 15-3-1941 sent to the Inspector of Excise.	
XV	23- 3-1941	Diary for the week ending 23-3-1941	do
XVI	16- 4-1941	Bail application of the 2nd accused before the lower Court and orders thereon.	
XVII	25- 3-1941	Yadast prepared for the identification of the 1st accused by P.W.1 among other persons.	
XVIII		Certified copy of the account No. 497 of the Canara Bank, Udipi Branch, relating to the 1st accused.	
XVIII(a)	3-3-1941	Pass book of 1st accused issued by the Canara Bank, Udipi Branch.	10
XIX	3- 1-1942	Deposition of D. R. Mahajan, Handwriting Expert, before the committing Magistrate.	
XIX(a)		Photograph of the signature in Exhibit VII and other admitted signatures of P.W.1.	
XIX(a)1		Signature in Exhibit VII enlarged in Exhibit XIX(a).	
XIX(a)2		} Other admitted signatures of P.W.1 enlarged on the photograph Exhibit XIX(a).	
XIX(a)3			
XIX(a)4			
XIX(a)5			
XIX(a)6			20
XX	12-11-1941	Portion marked in the deposition of D.W.9 in the lower Court.	
XXI	23- 3-1941	Fair copy of the Inspection Statement of work done by the 1st accused for the half-year ending 31-3-1941.	
XXI(a)		} Portions marked in	
XXI(b)			do
XXI(c)			
XXI(d)			
XXII	6-10-1941	Deposition of D.W. Ananthaya Hegde in the lower Court.	30
XXIII	5- 3-1941	Promissory note executed by the 1st accused in favour of Ananthaya Hegde for Rs. 800.	
XXIV	5- 3-1941	Letter written by the 1st accused to Ananthaya Hegde.	

MATERIAL OBJECTS.

1.	A saree	2.	A blouse	
3.	A rolled gold chain	4.	A revolver	
5.	A mundu	6.	A rosary	
7.	A gold bangle	8.	Hair pad	
9.	Hairpins two	10.	Glass bangle pieces	
11.	Five rosary beads			40
12.	Hair clipped by the doctor from the seat of injury on the head of P.W.1.			
13.	Cartridge sent to the chemical Examiner.			
14.	Wadding found at the time of demonstration in the lower court.			
15.	15 blank cartridges (3 taken for experiment and demonstration).			
16.	24 ball cartridges.			
17.	Gun powder black, removed by C.W.2 from a blank cartridge.			
18.	Cartridge case of	do		
19.	Cardboard wad of	do		

20. Cardboard wad after demonstration by C.W.2 in Court at a direct shot.
21. Cardboard wad of the cartridge after demonstration by C.W.2 in Court at an angular shot.
22. Six card board pieces tied together over which effect of a direct shot of a blank cartridge is visible.
23. Do over which the effect of a blank cartridge shot at an angle is visible.
24. Two cartridge cases of the two blank cartridges used in Court for demonstration.

10

(Sd.) T. D. RAMAIYA,
Assistant Sessions Judge.

(True Copy)

WORDS: 19,879.

S. P. W., Ltd., Mangalore.

Assistant Sessions Judge.	
True Copy	
(BY ORDER)	
Mangalore	} Sarishtadar.
Asst. Sessions Court.	
To 14.7.1942	
The	